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THE COURT OF DEATH

THE RELATIONS

FOREIGN GOVERNMENTS

THE COURT OF HOME

CORRESPONDENCE

RESPECTING

THE RELATIONS

EXISTING BETWEEN

FOREIGN GOVERNMENTS

AND

THE COURT OF ROME.

*Presented to the House of Commons, in pursuance of their Address of
the 18th February, 1851.*

LONDON:
PRINTED BY HARRISON AND SON.

CORRESPONDENCE

OF

THE RELATIONS

EXISTING BETWEEN

FOREIGN GOVERNMENTS

AND

THE COURT OF ROME.

THE SECOND VOLUME.
LONDON: 1841.

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MOORE

Mr. Moore, 100 N. 1st St., St. Louis, Mo.
The following names are those of the family of Moore, and are not to be confused with the name of Moore, which is a common name in many parts of the country.

THE MOORE FAMILY

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Papers respecting the Relations existing between Foreign
Governments and the Court of Rome.

Instructions to Her Majesty's Representatives Abroad.

My Lord, (Sir,)

Foreign Office, December 12, 1850.

I HAVE to instruct { your Excellency
your Lordship } to procure and to transmit
you
to me, with as little delay as possible, a copy of any Concordat or
equivalent arrangement between the Government
and the Court of Rome, for the governance of the Roman Catholic
Church in

I have likewise to desire that { your Excellency
your Lordship } will report as to
you
the course pursued in with regard to the appoint-
ment of Roman Catholic Bishops, and with regard to the publication of
Papal Bulls and Rescripts, and whether such Bulls and Rescripts may
be published without the previous knowledge and sanction of the
Government, and, if not, in what way the consent
or sanction of the Government is obtained.

I am, &c.

(Signed) PALMERSTON.

AUSTRIA.

No. 1.

Mr. Magenis to Viscount Palmerston.—(Received December 31.)

My Lord,

Vienna, December 24, 1850.

I LOST no time upon the receipt of your Lordship's despatch of the 12th instant, in applying to the Austrian Government to have the goodness to furnish me with a copy of any Concordat or equivalent arrangement which existed between it and the Court of Rome, as well as the other information which your Lordship directs me in that despatch to report for the use of Her Majesty's Government, and I will immediately forward these documents as soon as I shall receive them.

I have, &c.

(Signed) ARTHUR C. MAGENIS.

No. 2.

Mr. Magenis to Viscount Palmerston.—(Received January 20.)

My Lord,

Vienna, January 14, 1851.

I HAVE the honour to transmit herewith copy of a note from Baron Werner, in reply to a note which, in conformity with the instructions contained in your Lordship's despatch of the 12th ultimo, I addressed to Prince Schwarzenberg on the 18th of December, requesting his Highness to have the goodness to furnish me, for the use of Her Majesty's Government, with a copy of any Concordat which might exist between this Government and the Court of Rome, as well as to inform me of the course pursued in Austria with regard to the appointment of Roman Catholic bishops, and to the publication of Papal bulls and rescripts.

Baron Werner, in his note, states, that after conferring with the Minister of Public Worship on this subject, he thinks he cannot better reply to my inquiries than by transmitting to me copies of the report of that Minister to the Emperor of the 7th of April last, upon the relations of Church and State, and of the Imperial Decree of the 18th of the same month, enforcing the principles laid down in the report.

Both of these documents have been already transmitted to your Lordship in my despatch of the 12th of June, 1850, in original and translation, together with other documents bearing on this question, to which Baron Werner makes no allusion, and it is consequently unnecessary that they should be again forwarded in translation.

No Concordat has, I find, been concluded between this Governmen

and the Court of Rome since the decrees of the Emperor Joseph II in 1781, with regard to the church in his dominions. Transactions between the two Governments have been regulated by traditional forms. Baron Werner, however, intimates in his note, that it is probable a Concordat will be shortly concluded for the definitive regulation of those church matters which were not settled by the Imperial Decree of the 18th of April, 1850.

Although the Baron states that I shall find in that decree the course pursued with regard to the nomination of bishops in this country, there is no mention whatever made of that subject. The practice in force, however, is for the Emperor to propose three candidates to the Court of Rome whenever any bishopric becomes vacant—with the exception of the three Archbishoprics of Olmütz, Salzburg, and Breslau, where the archbishop is elected by the chapter—from whom the Pope selects the future bishop. His Holiness' selection, however, must be subsequently sanctioned by the Emperor.

With regard to the publication of Papal bulls and rescripts, none such were allowed to be published previous to April 1850, which had not received the *Placetum Regium*; and this sanction "was granted only to such rescripts as had been effected through the intervention of the Imperial and Royal Agency at Rome, and the latter could only interfere in such matters which were addressed to them by the authorities of State or with their consent."—(See p. 8.)

By the first paragraph of the Decree of April 18th, "It is allowed to bishops, as well as to the faithful under their orders, to have recourse to the Pope in spiritual matters, and to receive the decisions and dispositions of His Holiness, without the previous consent of the secular authorities;" and in the following paragraph, bishops are likewise permitted to publish exhortations and orders to their clergy without the previous consent of the secular authorities, but they are bound to furnish to these latter copies of the same.

One of the points still undecided, and on which the Nuncio hopes to obtain a solution favourable to the views of the Court of Rome, is the management and distribution of the funds arising from the secularization by the Emperor Joseph, of convents and other religious communities.

These funds have hitherto been applied by the secular authorities to purposes of education and to augment small benefices, and the clergy are now desirous of obtaining their entire management.

The late concessions made to the clerical party in Austria are too recent to allow them to be judged of by their fruits; they have, however, been looked on with alarm by many persons, though the peculiar position of this Government to the Court of Rome is such as can hardly fail on most occasions to prevent the latter supporting pretensions which the Government may deem dangerous.

I have, &c.

(Signed) ARTHUR C. MAGENIS.

Inclosure 1 in No. 2.

Baron Werner to Mr. Magenis.

Vienne, 11 Janvier, 1851.

PAR une note en date du 18 Décembre dernier, Mr. Magenis, &c., a bien voulu réclamer l'entremise de M. le Ministre des Affaires Etrangères, à l'effet d'obtenir communication des Concordats ou autres transactions de cette nature, qui pourraient avoir été conclus entre le Gouvernement Impérial et le St. Siège. En même temps, Mr. Magenis a exprimé le désir d'être renseigné sur la question de savoir si la publication en Autriche des bulles, brefs et autres pièces émanées de Sa Sainteté, était assujettie à la condition d'une sanction préalable du Gouvernement Impérial, ainsi que

sur la marche suivie en Autriche à l'égard de la nomination aux sièges épiscopaux.

Le Soussigné, après avoir conféré avec M. le Ministre du Culte, ne croit pouvoir mieux répondre aux vœux énoncés par Mr. Magenis, qu'en ayant l'honneur de lui transmettre les numéros ci-joints du Bulletin des Lois de l'Empire, contenant :

1. Le rapport adressé à Sa Majesté l'Empereur par le Ministre du Culte, en date du 7 Avril, 1850, et qui a pour objet de régler l'ensemble des relations entre l'Eglise et l'Etat.

2. L'ordonnance Impériale rendue sur ce rapport à la date du 18 Avril, 1850.

3. L'arrêté du Ministre du Culte, en date du 15 Juillet, 1850, réglant le mode d'exécution des principes posés dans l'ordonnance précitée.

En ce qui concerne en particulier le *placetum regium* et la nomination aux évêchés, l'Ordonnance Impériale du 18 Avril, 1850, fournira à Mr. Magenis les renseignemens qu'il désire obtenir à ce sujet.

Quant à la dernière de ces deux questions, il est toutefois à remarquer que le droit de nomination aux évêchés exercé par l'Empereur, admet les exceptions suivantes :

Les Archevêques de Olmütz et de Salzbourg sont, en vertu d'anciens privilèges élus par les chapitres métropolitains de ces deux villes. Les évêques suffragans de l'Archevêque de Salzbourg sont en partie à la nomination de ce prélat, et n'ont pas besoin, à l'instar des autres évêques de la Catholicité, d'une confirmation spéciale du St. Siège.

Enfin, l'Evêque de Breslau, dont le diocèse s'étend à une partie de la Silésie Autrichienne, est élu par le Chapitre de Breslau, et son élection n'est pas soumise à la sanction de Sa Majesté Impériale.

En terminant, le Soussigné croit devoir ajouter que les délibérations tendant à régler ceux des objets signalés dans le rapport du Ministre du Culte, qui n'ont pu y trouver leur solution définitive, sont encore pendantes, et qu'il est à prévoir qu'elles aboutiront à la conclusion d'un Concordat avec le St. Siège.

Le Soussigné, &c.

(Signé)

BON. WERNER.

(Translation.)

Vienna, January 11, 1851.

BY a note dated the 18th of December last, Mr. Magenis, &c., has been pleased to request the assistance of the Minister for Foreign Affairs in acquiring information as to the Concordats or other arrangements of a like nature which may have been concluded between the Imperial Government and the Holy See. Mr. Magenis at the same time expressed a wish to obtain information as to the question whether the publication in Austria of bulls, briefs, or other documents emanating from His Holiness, was subject to the previous consent of the Imperial Government, as well as as regards the course pursued in Austria with respect to the appointment to episcopal sees.

The Undersigned having consulted the Minister of Public Worship, believes he cannot better fulfil the wishes expressed by Mr. Magenis than by transmitting to him the accompanying numbers of the Bulletins of the Laws of the empire, comprising :

1. The report addressed to His Majesty the Emperor by the Minister of Public Worship, on the 7th of April, 1850, the purport of which is to regulate the whole of the relations between the Church and State.

2. The Imperial Ordinance issued on the 18th of April, 1850, in conformity with that report.

3. The Decree of the Minister of Public Worship of the 15th of July, 1850, regulating the mode of execution of the principles laid down in the above ordinance.

As regards more particularly the *placetum regium* and the nomination to bishoprics, the Imperial Ordinance of the 18th of April will furnish Mr. Magenis with the information required on this subject.

With respect to the latter of these two points, it is however to be observed, that the right exercised by the Emperor to nominate to bishoprics is liable to the following exceptions :

The Archbishops of Olmütz and Salzburg are elected, by virtue of ancient privileges, by the metropolitan chapters of those cities. The suffragans of the Archbishop of Salzburg are partly nominated by that prelate, and do not require, as other Catholic bishops do, a special confirmation by the Holy See.

Lastly. The Bishop of Breslau, whose diocese extends to a portion of Austrian Silesia, is elected by the Chapter of Breslau, and his nomination is not subject to the sanction of His Imperial Majesty.

The Undersigned thinks it right finally to add, that the consideration of the points enumerated in the report of the Minister of Worship, which have not as yet been definitively settled, is still pending ; and it is to be expected that they will find their solution by the conclusion of a Concordat with the Holy See.

The Undersigned, &c.

(Signed)

BON. WERNER.

Inclosure 2 in No. 2.

Report of the Minister of Public Worship on the relations between the Church and State. April 7, 1850.

Allerunterthänigster Vortrag des treuehorsaamsten Ministers des Cultus und Unterrichts, Grafen Thun, über die mit den katholischen Bischöfen wegen Regelung der kirchlichen Angelegenheiten gepflogenen Verhandlungen.

Allernädigster Herr !

Unter den vielen wichtigen Fragen, deren Lösung bei der Neugestaltung Oesterreichs — der schweren aber erhabenen Aufgabe der Regierung Eurer Majestät — nicht umgangen werden kann, ist die Frage von dem Verhältnisse des Staates zur Kirche eine der allerwichtigsten, denn sie berührt die religiösen Ueberzeugungen, das unantastbare Heiligthum des Einzelnen, und zugleich die gewaltigste und nachhaltigste von allen Mächten, welche den Entwicklungsgang von Völkern und Staaten bestimmen. Einem Zustande innerer Auflösung gehen Völker und Staaten entgegen, wo die religiösen Ueberzeugungen ihre Macht auf die Gemüther verloren haben. So lange sie aber Macht üben, wirken die kirchlichen Angelegenheiten vielfach, eingreifend und unabweißlich zurück auf das bürgerliche Leben. Staat und Kirche haben es mit denselben Menschen zu thun. Die Kirche bestrebt sich, durch den Einfluß der Religion dem Gewissen eine Richtschnur zu geben. Die Staatsgewalt hat das ernste Amt empfangen, die Rechtsordnung nöthigen Falls durch Anwendung äußeren Zwanges zu sichern. Doch wenn das Pflichtgefühl ihren Anordnungen nicht zur Stütze dient, so ist ihre Macht gelähmt. Anderer Seits bedarf die Kirche auch äußerer Hilfsmittel ihrer Thätigkeit, und spricht bei Erwerbung und Bewahrung derselben den Schutz der Staatsgewalt an. Von allen Seiten her kommen daher Staat und Kirche mit einander in Berührung. Eben deshalb muß jede große Bewegung, welche auf dem Gebiete des einen Theiles vor sich geht, ihre Rückwirkung in den Bereich des andern erstrecken, und in der Stellung, welche sie zu einander einnehmen, Aenderungen hervorbringen. Auch von der Bewegung, welche Oesterreich ergriffen hat, konnte das Verhältniß des Staates zur Kirche nicht unberührt bleiben. In den Tagen der Gährung wurden von verschiedenen Seiten her Stimmen laut, welche in völlig entgegengesetzter Absicht Trennung des Staates von der Kirche forderten, und sie sind noch nicht ganz verstummt. Allein die Regierung Eurer Majestät, welche in dem großen Augenblicke, als sie Oesterreichs neue Verfassung ins Leben rief, alle die mannigfachen Wünsche und Bestrebungen mit ruhiger Umsicht zu wägen verpflichtet war, durfte nicht daran denken, auf eine Gestaltung einzugehen, welche in einem durchgebildeten Staatsleben niemals und nirgends zur Wahrheit geworden ist. Wohl gibt es Länder, wo eine regelmäßige Verbindung nur zwischen der Kirche und den Gemelnden, nicht aber zwischen der Kirche und der Regierung besteht, wo vielmehr jede Berührung zwischen diesen beiden sorgfältig vermieden wird, und es fehlt nicht an Bertheidigern dieser Einrichtung, ob sie gleich die Probe der nach Jahrhunderten rechnenden Geschichte noch nirgend bestanden hat. Mit der geschichtlichen Entwicklung und den gegebenen Zuständen Oesterreichs steht sie aber jedenfalls in einem Widerspruche, welcher ihre Durchführung zur Unmöglichkeit macht. Die Beziehungen der Regierung zur Kirche in Oesterreich könnten nur scheinbar für aufgehoben erklärt werden, aber keine Macht der Erde wäre im Stande, diese Aufhebung in Wahrheit zu verwirklichen. Wohl aber würde schon eine solche Erklärung einerseits die religiösen Angelegenheiten der Völker Oesterreichs namenloser Verwirrung Preis geben, während sie andererseits unvereinbar wäre mit der Aufrechterhaltung wohlervorbener Rechte seiner Regenten, auf welche zu verzichten die Regierung Eurer Majestät niemals rathen könnte. Das begründete Verlangen, daß die freiere Bewegung, die auf allen Gebieten zu gewähren Bedürfniß und Nothwendigkeit war, auch der Kirche nicht versagt werde, mußte daher beachtet werden, ohne doch so schnell mit der Vergangenheit zu brechen und Unausführbares zu verheissen. Das Patent vom 4. März 1849 verbürgte durch § 2 jeder gesetzlich anerkannten Kirche und Religionsgesellschaft

das Recht, ihre Angelegenheiten selbstständig zu ordnen und zu verwalten, so wie das Recht der gemeinsamen öffentlichen Religionsübung, und das Vereinsgesetz entband die Versammlungen, welche die Ausübung eines gesetzlich gestatteten Cultus zum ausschließlichen Gegenstande haben, von den Beschränkungen, welche für Volksversammlungen aufgestellt wurden; aber derselbe §. 2 des obigen Patentes sprach zugleich aus, daß jede Kirche im Besitze und Genuße der für ihre Cultus-, Unterrichts- und Wohlthätigkeitszwecke bestimmten Anstalten, Stiftungen und Fonde verbleibe, und wie jede Gesellschaft den allgemeinen Staatsgesetzen unterworfen sei. Dadurch war gesetzlich festgestellt, daß die Staatsregierung die Kirchen und Religionsgesellschaften als solche anerkenne und schützen werde. Es ist die Entwicklung der kirchlichen Verhältnisse auf Grundlage ihres factischen Bestandes und ihrer rechtlichen Beziehungen zur Staatsregierung gewahrt.

Nachdem aber Euerer Majestät durch den §. 13 des erwähnten Patentes vom 4. März 1849 Allerhöchst Ihren treugehorsamsten Ministerrath beauftragten zur Durchführung der Bestimmungen desselben bis zum Zustandekommen organischer Gesetze provisorische Verordnungen zu entwerfen und Euerer Majestät zur Sanction vorzulegen, so handelte es sich darum, diesem Allerhöchsten Auftrage auch hinsichtlich der im §. 2 enthaltenen Zusicherungen nachzukommen. Der treugehorsamste Ministerrath erkannte die Nothwendigkeit dabei vor Allem seine Aufmerksamkeit auf die Angelegenheiten der katholischen Kirche zu lenken, welche die große Mehrzahl der österreichischen Staatsbürger zu ihren Bekennern zählt, und im ganzen Reiche für die sittliche Grundlage des Volkslebens von der höchsten Bedeutung ist. Die kirchlichen und politischen Beziehungen waren durch die frühere Gesetzgebung vielfach in einander verschmolzen; sollten nicht bedenkliche Störungen eintreten, so mußten die durch §. 2 aufgestellten Grundsätze auf das Einzelne der dadurch berührten Verhältnisse mit sorgfamer Umsicht angewandt werden. Ueberdies war durch die Stellung, in welcher die katholische Kirche kraft §. 2 anerkannt ist, die Nothwendigkeit gegeben, die Neugestaltung ihres Verhältnisses zum Staate im Wege der Vereinbarung durchzuführen. Die Regierung Euerer Majestät glaubte daher den Auftrag, welcher ihr durch §. 13 des Allerhöchsten Patentes vom 4. März geworden ist, hinsichtlich der katholischen Kirchenangelegenheiten nicht erfüllen zu können, bevor sie sich nicht mit den gesetzmäßigen Vertretern der katholischen Kirche darüber ins Einvernehmen gesetzt habe, und erließ am 31. März v. J. an die Bischöfe der Länder, für welche die am 4. März gewährten allgemeinen Bürgerrechte kund gemacht wurden, die Einladung sich nach Wien zu begeben, damit das Ministerium zur Berathung der Stellung, welche die katholische Kirche auf Grundlage jener gesetzlichen Bestimmungen künftig im Reiche einnehmen werde, mit denselben in unmittelbarem Verkehr treten könne. Es wurde der Einladung mit Bereitwilligkeit entsprochen, und die versammelten Bischöfe hielten vom 30. April bis 17. Juni Berathungen, deren Resultat sie dem Ministerium unter dem 30. Mai und dem 6., 13., 15. und 16. Juni mittheilten. Bevor sie die Versammlung schlossen, erwählten sie ein Comité, welches aus dem Cardinal und Fürst-Erzbischof von Salzburg, den Fürstbischöfen von Seckau und Laibach, dem Feldbischöfe und dem Bischofe von Brünn besteht, und laut der am 17. Juni gemachten Mittheilung die Bestimmung hat, über die von der Versammlung behandelten Gegenstände mit der Regierung Euerer Majestät zu verkehren. Die schriftlichen Aeußerungen, welche die Versammlung dem Ministerium vorlegte, haben zum Gegenstande:

1. Eine einleitende Erklärung.
2. Die Regierung und Verwaltung der Kirche, die geistlichen Aemter und Pfründen, das Patronatsrecht, die Pfarr-Concursprüfung und den Gottesdienst.
3. Die geistliche Gerichtsbarkeit.
4. Den Unterricht.
5. Das Klosterwesen.
6. Die Ehefrage.
7. Den Religions-, Studien- und Schulfond.
8. Das Pfründen- und Gotteshaus-Vermögen.

Schon aus diesen Andeutungen erhellt, wie reichhaltig der Inhalt ist, und wie viele und wichtige Verhältnisse derselbe berührt. Die bischöfliche Versammlung hat, während sie die Ansprüche der Kirche mit Eifer vertrat, in anerkennenswerther Weise das Streben bezeugt, die Geltendmachung der kirchlichen Rechte mit den wesentlichen Interessen des Staates in Einklang zu setzen. Demungeachtet unterliegt die Erledigung ihrer Eingaben manchen Schwierigkeiten.

Die Angelegenheit der Religions-, Studien- und Schulfonde bedarf umständlicher Erhebungen, welche noch im Zuge sind; die neue Regelung der Verwaltung des Kirchenvermögens und der Patronatsverhältnisse ist durch die auf anderen Gebieten vor sich gehenden Reformen bedingt. Das Klosterwesen wünschen die Bischöfe in einer den Bedürfnissen der Zeit entsprechenden Weise seiner kirchlichen Bestimmung gemäß zu beleben und zu ordnen, und die Uebelstände, welche daraus erwachsen, daß aus vielen Orden der Geist ihres Institutes entwichen ist, können jenes Bestreben nur wünschenswerth erscheinen lassen. Die voraussichtlichen nächsten Wirkungen desselben, und die Schwierigkeiten, welche sich daraus ergeben dürften, machen es jedoch nothwendig, diese Angelegenheit noch weiterer Behandlung vorzubehalten. Hinsichtlich der Ehefrage werden von den katholischen Bischöfen nicht ohne Grund Forderungen in der bisherigen Gesetzgebung in Anspruch genommen. Auch die Superintenden und evangelischen Vertrauensmänner, welche die Regierung Euerer Majestät gleichfalls zu einer Berathung über die Angelegenheiten ihrer Glaubensgenossen eingeladen hat, haben in ihren vorliegenden Eingaben Wünsche ausgesprochen, welche sorgfältige Berücksichtigung erheischen. Die Regierung Euerer Majestät hat die dadurch angeregten wichtigen Fragen, die einer gemeinsamen Erledigung bedürfen, bereits einer gründlichen Prüfung unterzogen. Sie behält sich vor, darüber mit dem Ausschuße der Bischöfe demnächst in nähere Verhandlung zu treten, welche ihrem Abschlusse jedoch nicht ohne ein Einvernehmen mit dem päpstlichen Stuhle zugeführt werden kann. Auch noch in andern Beziehungen stellt sich die Nothwendigkeit eines solchen dar.

Die Statt gehabte Versammlung war keine kirchliche Synode, und konnte daher nicht ihren Mitgliedern und noch weniger den Nachfolgern derselben eine Rechtsverbindlichkeit zur Beobachtung der gefaßten Beschlüsse auflegen. Hinsichtlich derjenigen Angelegenheiten, deren zweckmäßige Neugestaltung

durch Zusicherungen von kirchlicher Seite bedingt ist, und wo auch von der bischöflichen Versammlung entsprechende Zusicherungen gegeben worden sind, wird daher gleichwohl die Bürgschaft vermist, daß die gefaßten Beschlüsse überall und dauernd zur Nichtschnur der bischöflichen Verfügungen dienen werden. Diese Bürgschaft wird nur durch ein Einvernehmen mit dem päpstlichen Stuhle erzielt werden können, abgesehen davon, daß einige Fragen eine unmittelbare Verhandlung mit demselben erfordern.

Mehrfache Rücksichten mißrathen jedoch jede Erledigung in der kirchlichen Angelegenheit so lange zu vertagen, bis für alle darin begriffenen Gegenstände die Vorbedingungen definitiver Entscheidung erfüllt sind. Alle, welche an der katholischen Kirche lebhaften Antheil nehmen, harren mit Ungeduld einer baldigen Verwirklichung der in dem Patente vom 4. März enthaltenen Zusagen, und so sehr der eingetretene Aufschub durch die Sachlage gerechtfertigt wird, so müßte doch eine längere Verzögerung das Vertrauen in die Absichten der Regierung beeinträchtigen. Zudem wirkt der Zustand von Unentschiedenheit lähmend auf das innere Leben der Kirche, dessen kräftigere Entwicklung ein immer allgemeiner gefühltes Bedürfniß ist, während es den Staatsbehörden überall, wo die alte Ordnung mit den neuen Principien nicht im Einklange steht, und durch deren Verkündung erschüttert ist, an festen Regeln für ihr Benehmen in Betreff kirchlicher Angelegenheiten gebricht.

Der treugehorsamste Ministerrath ist daher nach reiflicher Erwägung der Sachlage der Ansicht, daß ohne weiterem Verzug vorläufig alle diejenigen von der bischöflichen Versammlung angeregten Fragen erlediget werden sollen, deren Erledigung bereits möglich ist, hinsichtlich der übrigen aber die Verhandlungen mit dem Ausschusse der Bischöfe fortgesetzt und die nöthigen Vorbereitungen für ein Concordat mit dem päpstlichen Stuhle, in so weit ein solches erforderlich ist, getroffen werden und erbittet sich hierzu in tiefster Ehrfurcht die Ermächtigung Euerer Majestät.

Die versammelten Bischöfe haben in ihrer einleitenden Erklärung vom 30. Mai v. J. sich zuvörderst im Allgemeinen über die Stellung ausgesprochen, welche die katholische Kirche in Anspruch nimmt, und die Ueberzeugung ausgedrückt, daß die Regierung Euerer Majestät, während sie andern Religionsgesellschaften neue Rechte verleiht, die alten wohlervorbenen Rechte der katholischen Kirche anerkenne und zu schützen bereit sei.

Eure Majestät dürften den treugehorsamsten Minister des Cultus und Unterrichts zu der Erklärung ermächtigen, daß die Bischöfe sich in diesem Vertrauen nicht täuschen. Die Regierung Euerer Majestät ist von dem Grundsatz ausgegangen, daß die Ueberzeugungen, welche den Menschen mit einer höhern Welt verknüpfen, dem heiligsten Bereiche der Freiheit angehören, und enthielt sich auf dieselben auch nur mittelbar einzuwirken, unter der Voraussetzung, daß es sich um wahrhaft religiöse Ueberzeugungen, also um solche handle, welche den Pflichten, ohne deren Heilighaltung ein wohlgeordnetes Staatsleben unmöglich ist, zur festen Stütze dienen. Deswegen wurden die bürgerlichen und politischen Rechte von dem Religionsbekenntnisse unabhängig gemacht, und hinsichtlich der Rechte, welche §. 2 des mehrerwähnten Patentes vom 4. März zusichert, alle gesetzlich anerkannten Kirchen und Religionsgesellschaften einander gleichgestellt. Dadurch sind aber die besonderen Rechtsverhältnisse, welche sich zwischen Oesterreichs Herrschern und der katholischen Kirche seit Jahrhunderten entwickelt haben, weder aufgehoben, noch in Frage gestellt. Auch muß die Regierung Euerer Majestät sich aufgefordert fühlen, während sie jeder Religionsgesellschaft die gesetzlich zugesicherte Freiheit gewährt, der Kirche, von welcher eine so große Mehrzahl der Staatsbürger für so wichtige geistige Interessen Befriedigung erwartet, stets besondere Berücksichtigung zuzuwenden.

Die versammelten Bischöfe haben ferner den Zusatz, jenes §. 2, daß die Kirchen und Religionsgesellschaften, wie jede Gesellschaft den allgemeinen Staatsgesetzen unterworfen seien, zum Gegenstande einer Erläuterung gemacht, und sie beziehen ihn ganz im Sinne des Gesetzgebers auf die Erfüllung jener allgemeinen Bürgerpflichten, welche den Wirkungskreis der Kirche nicht beeinträchtigen, sondern vielmehr durch das Sittengesetz, welches sie verkündigt, geheiligt werden. Die katholische Kirche ruht übrigens auf dem festen Grunde der Ueberzeugung, daß sie nicht nur ihre Glaubens- und Sittenlehre, sondern auch die Grundzüge ihrer Verfassung durch göttliche Offenbarung empfangen habe; sie kann daher nicht wie andere Gesellschaften ihre eigenen Gesetze willkürlich ändern. Jede Staatsgewalt, die eine Verständigung über ihre Beziehungen zur katholischen Kirche wünscht, muß demnach jene Gesetze anerkennen und die Regierung Euerer Majestät hat diese Nothwendigkeit niemals verkannt.

Bei den in den weiteren Eingaben der bischöflichen Versammlung angeregten Fragen handelt es sich zunächst darum, diejenigen bisher giltigen Gesetze und Vorschriften, welche der Verwirklichung der im §. 2 des Allerhöchsten Patentes vom 4. März 1849 der Kirche angewiesenen Stellung entgegenstehen, zu beseitigen, und durch neue Bestimmungen zu ersetzen.

Der treugehorsamste Ministerrath erlaubt sich zu dem Ende die beiliegende Verordnung der Allerhöchsten Genehmigung Euerer Majestät ehrfurchtsvoll zu unterbreiten.

Zur Erläuterung und Begründung seines Inhaltes geruhen Eure Majestät dem ehrerbietigst Unterzeichneten nachstehende Bemerkungen zu gestatten:

Der Verkehr mit dem päpstlichen Stuhle war durch die bisherige Gesetzgebung mit gehäuften Vorsichtsmaßregeln umstellt.

Jeder päpstliche Erlaß — nur die Lossprechungen der Pönitenziarie ausgenommen — unterlag dem landesfürstlichen Placet; es wurde nur jenen Erlässen ertheilt, die durch Vermittelung der in Rom aufgestellten k. k. Agenzie erwirkt waren, und diese durfte sich nur in Angelegenheiten verwenden lassen, welche durch die Staatsbehörden, oder mit deren Bewilligung an sie geleitet wurden.

Der Verkehr der Bischöfe mit ihren Diöcesen unterlag eingreifenden Beschränkungen. Kein bischöflicher Erlaß durfte ohne Regierungs-Bewilligung gedruckt, und jene Hirtenbriefe und Kreisdschreiben, in welchen irgend eine Verbindlichkeit aufgelegt wurde, mußten nicht nur der Landesstelle vorgelegt, sondern auch von dieser mit ihren allfälligen Bemerkungen der politischen Hofstelle eingesendet werden.

Die versammelten Bischöfe haben in ihrer beiliegenden Eingabe vom 16. Juni die Voraussetzung ausgesprochen, daß durch §. 2 der Grundrechte die Hemmnisse, welche ihrem Verkehre mit dem heiligen Stuhle bisher im Wege standen, vollkommen gehoben seien, und weder für sie, noch für die ihnen unterstehenden Gläubigen fernerhin eine Schwierigkeit obwalten werde, sich in geistlichen Dingen an den Papst zu wenden, oder die Anordnungen und Entscheidungen desselben zu empfangen. Sie drücken

ferner die zurechnungsfähige Erwartung aus, daß in Folge der zugesicherten Selbstständigkeit der Kirchenverwaltung ihnen stets werde gestattet sein, über Gegenstände ihrer Amtsgewalt an ihre Gemeinden ohne vorläufige Genehmigung der Staatsbehörden Ermahnungen und Anordnungen zu erlassen.

Die Fortdauer der bisher bestandenen Beschränkungen ist, nach dem Erachten des treugehorsamsten Ministerrathes, in der That nicht länger zulässig. Sie sind Bestandtheile einer Gesetzgebung, die in den Verhältnissen der Zeiten, in welchen sie sich entwickelte, ihre Erklärung findet, aber unvereinbar ist mit den wesentlich geänderten Zuständen der Gegenwart; jene Gesetzgebung war bestimmt, durch eine consequente Bevormundung auf allen Gebieten des geistigen Lebens jedem Mißbrauch freier Selbstthätigkeit vorzubeugen. Ihre Wirksamkeit beruhte eben auf ihrer Allseitigkeit. Es war folgerichtig, sie auch der Kirche gegenüber in Anwendung zu bringen. Aber die der Kirche gesetzten Schranken allein hätten nie staatsgefährlichen Mißbrauch zu verhüten vermocht, und sie haben sich immer ohnmächtig erwiesen, wo die Träger der Kirchengewalt sie mißbrauchen wollten, und die politischen Ereignisse dazu Gelegenheit boten, während sie unter andern Verhältnissen zu nutzlosen Formlichkeiten herabsanken. Immer lähmten sie aber auch die heilsame Selbstthätigkeit, die überall nur aus dem Gefühle selbstständiger Verantwortlichkeit entspringt, und nährten jenen Geist des Mißtrauens und Argwohnes, der der Kirche wie dem Staate Nachtheil bringt. Diesen unerfreulichen Geist haben Euer Majestät aus der österreichischen Gesetzgebung verbannt. Ihn nur der Kirche gegenüber festzuhalten, wäre der Regierung Euer Majestät eben so unwürdig, als unvereinbar mit den im §. 2 des Allerhöchsten Patentes vom 4. März 1849 verbürgten Rechten.

Dagegen verlangt es die innige Verbindung, welche zwischen dem österreichischen Staate und der katholischen Kirche besteht, und welche auch die Bischöfe nicht gelöst zu sehen wünschen, daß sie auch fernerhin, im Einvernehmen mit der Regierung handeln, und daß daher jene bischöflichen Erlässe, welche äußere Wirkungen nach sich ziehen, oder öffentlich kund gemacht werden sollen, gleichzeitig den betreffenden Regierungsbehörden mitgetheilt werden. Wenn übrigens die Bischöfe nicht mehr gezwungen werden, sich im Verkehr mit dem päpstlichen Stuhle, ausschließlich des k. k. Agenten in Rom zu bedienen, so ist es doch sehr wünschenswerth, daß sie sich seiner in Parteisachen aus eigener Wahl auch künftighin bedienen, um dadurch die Unzukömmlichkeiten zu vermeiden, welche mit der Benützung gewinnföhriger Privat-Agenten häufig verbunden sind.

Die versammelten Bischöfe haben angezeigt, daß sie die Provinzial-Concilien wieder ins Leben zu rufen gedenken, und ihre Absicht angedeutet, die Diöcesan-Synoden unter gewissen Bedingungen zu erneuern. Die österreichische Regierung hat die Abhaltung von Provinzial-Concilien und Diöcesan-Synoden niemals verboten; um so weniger könnte sie gegenwärtig hindern, daß diese Versammlungen unter den durch das Kirchengesetz vorgeschriebenen Bedingungen wieder Statt finden. Es ist sonach in dieser Beziehung kein Anlaß zu einer gesetzlichen Anordnung vorhanden; die Regierung Eurer Majestät hat jedoch Grund zu wünschen, und ein Recht zu erwarten, daß die Bestimmungen, nach welchen die Einberufung geschehen soll, ihr bekannt gegeben, und daß die Anordnungen, welche von dem Provinzial-Concilium oder auf der Diöcesan-Synode getroffen werden, den Regierungsbehörden in so weit, und in derselben Weise, wie die bischöflichen Erlässe mitgetheilt werden.

Beruhet Euer Majestät zu genehmigen, daß diese Erwartung in der Erledigung der bischöflichen Eingaben ausgesprochen werde.

Die geistliche Gerichtsbarkeit erfuhr in Oesterreich Hemmungen, in Folge deren sie thatsächlich theilweise aufgehoben wurde. Die Gränzlinie ihrer Zulässigkeit wurde in der Unterscheidung rein geistlicher Angelegenheiten im Gegensatz zu rein bürgerlichen oder gemischten gesucht.

Da aber alle Gegenstände kirchlicher Gesetzgebung in dem Maße ihrer Wichtigkeit auch eine Rückwirkung auf das Staatsleben äußern, so mußte durch jene Unterscheidung die Competenz der geistlichen Gerichte fast gänzlich verschwinden. So wurde die Disciplinargewalt über die Diener der Kirche fast ganz der gemeinschaftlichen Amtshandlung weltlicher und geistlicher Behörden zugewiesen.

Mit den Kirchenstrafen verband die ältere Gesetzgebung bürgerliche Nachtheile. Hievon nahm man Veranlassung, die Verhängung von Kirchenstrafen von dem Ermessen der Staatsbehörden abhängig zu machen, und an dieser Beschränkung wurde auch dann festgehalten, als die Gesetze, welche mit den Kirchenstrafen bürgerliche Folgen verknüpften, außer Kraft gesetzt waren.

Die versammelten Bischöfe haben in ihrer Zuschrift vom 16. Juni erklärt, daß, wenn die Selbstthätigkeit der Kirche sich kraftvoll erneuern solle, sie auch hinsichtlich der geistlichen Gerichtsbarkeit wieder in die Übung ihres Rechtes eintreten müsse, und sich über die Stellung, welche sie in dieser Beziehung in Anspruch nehmen, in folgender Weise ausgesprochen: „Ueber die Rechte und Verbindlichkeiten, welche den Mitgliedern der katholischen Kirche entweder als solchen, oder Kraft eines von denselben übernommenen Kirchenamtes zustehen oder obliegen, hat die Kirchengewalt nach Nichtsnur der Kirchengesetze zu entscheiden. Wenn das Mitglied einer Gesellschaft die Pflichten, die ihm als solchem obliegen, nicht erfüllt, so kann es auch nicht verlangen, an den Vortheilen, welche die Gesellschaft gewährt, Theil zu nehmen. Wenn der Beamte einer Gesellschaft dem erhaltenen Auftrage zuwider handelt, so kann er unter Bedingungen, welche durch die Gesellschafts-Versammlung näher zu bestimmen sind, seines Amtes und der damit verbundenen Vortheile beraubt werden. Die katholische Kirche, welche eine so erhabene und segensreiche Sendung zu erfüllen hat, kann um so weniger auf Befugnisse verzichten, welche ihr mit jeder gesellschaftlichen Gesellschaft gemein sind. Die geistliche Gewalt hat also das Recht, Kirchenglieder, welche die ihnen als solchen obliegenden Verbindlichkeiten verletzen, ganz, oder theilweise in dem Genuße der kirchlichen Wohlthaten auszuschließen, und dies geschieht durch den größeren und kleineren Bann. Da die Kirchenstrafen eine Rückwirkung auf bürgerliche Rechte nicht mehr üben, so fällt der Grund hinweg, auf welchen die Staatsgewalt sich berief, als sie die Verhängung kirchlicher Strafen mehr oder minder von ihrer Zustimmung abhängig machte. Was namentlich die kirchlichen Feierlichkeiten des Begräbnisses betrifft, so steht es der Kirche allein zu, darüber zu verfügen, und zwar nicht bloß in Folge ihrer Strafgewalt, sondern auch, weil ihr allein zusteht, kirchliche Gebete und Segnungen anzuordnen. Doch verkennen die versammelten Bischöfe nicht, daß die Kirchenstrafen, wenn sie ihrem Zwecke gemäß den Ernst des christlichen Lebens und den Eifer der christlichen Gemeinde fördern sollen, mit weiser Berücksichtigung der gegebenen Verhältnisse angewandt

werden müssen, und machen es sich zum Gesetze, ihre Strafgewalt stets mit umsichtiger Klugheit zu üben."

"Die geistliche Gewalt allein hat das Recht, jene, welche die Kirchenämter nicht der übernommenen Verpflichtung gemäß verwalten, in der durch das Kirchengesetz bestimmten Form zu suspendiren, oder abzuweisen, und ihnen die mit dem Amte verbundenen Einkünfte zu entziehen. Die versammelten Bischöfe setzen voraus, daß die Staatsgewalt zu Durchsetzung von Urtheilen, welche die kirchlichen Gerichte inner dem angedeuteten Bereiche und mit Beobachtung aller gesetzlichen Erfordernisse fällen, ihre Hilfe nöthigen Falles nicht versagen werde."

Der treuehorsaamste Ministerrath ist des ehrfurchtvollen Erachtens, daß auch in diesen Beziehungen die bisherige Gesetzgebung nicht länger haltbar sei. Wohl ist es sehr wünschenswerth, daß die Kirche und die Staatsgewalt in ihrer Amtshandlung nie die Untrennbarkeit ihrer beiderseitigen Interessen unbeachtet lassen. Auch im Familienleben begibt sich aber Vieles, was auf den Staat mittelbar einen mächtigen Einfluß übt, und was er doch seiner Entscheidung nicht vorbehalten kann, ohne sowohl alle Freiheit zu vernichten, als auch etwas schlechthin Unmögliches anzustreben. Dasselbe gilt von der Kirche. Ohne mit dem §. 2 des Allerhöchsten Patentes in Widerspruch zu gerathen, kann der Kirche nicht länger verwehrt werden, sich selbstständig der Strafgewalt zu bedienen, die sie aus der ihr inwohnenden Macht zu schöpfen, und ohne Anwendung äußerer Zwanges zu üben vermag. Wenn sie aber ihre Erkenntnisse durch äußere Zwangsmittel vollzogen wissen will, so darf die Staatsgewalt ihr den weltlichen Arm nicht leihen, ohne Bürgschaft zu haben für den gerechten Vorgang der geistlichen Gerichte. Die versammelten Bischöfe bemerken hierüber: "Da bei dem gerichtlichen Verfahren auf die Gewohnheiten und Bedürfnisse der christlichen Länder Rücksicht zu nehmen, in ihren Diöcesen aber die Entwicklung des diesfälligen Gewohnheitsrechtes durch die vieljährige Unterbrechung der geistlichen Gerichte gehemmt worden sei, so würden alle Einleitungen getroffen werden, um auf gesetzlichem Wege die nöthigen Näherbestimmungen zu erzielen." Die Regierung Euerer Majestät muß wünschen, daß diese Einleitungen, so sehr als es die Verhältnisse gestatten, beschleunigt und die Ergebnisse ihr mitgetheilt werden. Vorläufig muß sie sich aber vorbehalten, wofern die geistliche Behörde eine Unterstützung von Seite der Staatsgewalt anspricht, in die Untersuchungs-Acten Einsicht zu nehmen, um sich die Ueberzeugung zu verschaffen, daß der Vorgang den Kirchengesetzen, auf welche es dabei allein ankommt, vollkommen entsprechend sei. Je mehr Freiheit aber der Kirche gewährt ist, in dem Gebrauche ihrer eigenen Macht, desto wichtiger ist es für den Staat, daß diese Macht nicht Händen anvertraut werde, die sie in einer der bürgerlichen Gesellschaft gefährlichen Weise mißbrauchen. In so fern ein solcher Mißbrauch die Natur eines Verbrechens oder Vergehens annimmt, verfällt der Schuldige dem weltlichen Strafgerichte. Allein dem Diener der Kirche sind Befugnisse eingeräumt, durch deren Mißbrauch er, auch ohne eben den Strafgesetzen zu verfallen, dem Staate gefährlich werden kann, und keine Regierung darf solchen Mißbrauch dulden, ohne der Pflicht untreu zu werden, die ihr als Hüterin der Ordnung obliegt.

Die versammelten Bischöfe haben im Geiste der Kirche, welche sie vertreten, es ausgesprochen, daß geistlicher Kleriker und Pfründen nur Solche würdig seien, welche geeignet sind, wie in jeder christlichen Tugend, so auch in Erfüllung der Pflichten gegen die bürgerliche Obrigkeit der christlichen Gemeinde mit Wort und Beispiel vorzuleuchten. Die Regierung Euerer Majestät glaubt darauf vertrauen zu dürfen, daß die Vorsteher der katholischen Kirche diesen Grundsatz sowohl bei Candidaten von geistlichen Aemtern, als auch bei schon angestellten Geistlichen durchführen, und jeder Zeit die Hand bieten werden, um Geistliche, welche ihren heiligen Wirkungskreis auf eine dem Staate gefährliche Weise mißbrauchen, unschädlich zu machen. Unter dieser Voraussetzung glaubt sie es durch die der katholischen Kirche schuldige Achtung geboten, daß, wenn solche traurige Fälle sich ereignen, stets zunächst im Einverständnisse mit dem betreffenden Bischöfe, oder beziehungsweise mit dem päpstlichen Stuhle gegen die Pflichtvergeßenen vorgegangen werde.

Geruhen Euer Majestät demgemäß Allergnädigst anzuordnen, daß, wenn ein Geistlicher seine Stellung und die ihm in derselben für kirchliche Zwecke zustehenden Befugnisse zu anderen Zwecken in der Art mißbraucht, daß seine Entfernung vom Amte sich der Regierung als nothwendig darstellt, die weltlichen Behörden sich deshalb vorerst mit seinem kirchlichen Vorgesetzten in's Einvernehmen zu setzen haben.

Die bischöfliche Versammlung hat es mit Recht für angemessen erkannt, daß wenn ein Geistlicher von den weltlichen Gerichten wegen Verbrechen oder Vergehen verurtheilt wird, der Bischof in die Möglichkeit versetzt werde, bevor er eine geistliche Strafe verhängt, den Grad der Schuld, welche der Verurtheilte der Kirche gegenüber auf sich geladen, selbstständig zu beurtheilen. Daß er zu dem Ende vor Vollzug der Strafe von der Verurtheilung in Kenntniß gesetzt werde, ist bereits durch die bestehenden Gesetze angeordnet. Die versammelten Bischöfe haben den Wunsch ausgedrückt, daß auch die Mittheilung der Verhandlungs-Acten, wenn sie verlangt wird, nicht verweigert werde. Euer Majestät dürften sich bewogen finden Allergnädigst zu genehmigen, daß diese Mittheilung der Acten, obgleich sie auch bisher nicht verweigert wurde, den Gerichten ausdrücklich zur Pflicht gemacht werde.

Die Gegenstände, welche ihre gemeinsame Erledigung in der anliegenden Verordnung finden, sind insgesammt solche, hinsichtlich welcher es sich nur um Beseitigung der durch die bisherige Gesetzgebung aufgerichteten Schranken handelt.

Die anderen gegenwärtig zu erlebenden Punkte der bischöflichen Einaben verlangen abgesondert behandelt zu werden. Der ehrfurchtsvoll Unterzeichnete erlaubt sich die Unterrichtsfrage einem eigenen Allerunterthänigsten Vortrage vorzubehalten, über die übrigen Gegenstände aber Nachstehendes zu bemerken:

Die versammelten Bischöfe haben in ihrer Zuschrift vom 30. Mai v. J. erklärt: "daß sie alle Rechte ehren, welche die Staatsgewalt der Kirche gegenüber ansprechen kann, sowohl jene, welche aus der Natur der Staatsgewalt hervorgehen, als auch jene, welche der Monarch kraft besonderer Rechtsgründe erworben hat. Die ser Erklärung getreuzollen sie auch dem landesfürstlichen Rechte, die Person des zum Bisthume zu Erhebenden zu bezeichnen, ihre Anerkennung; doch halten sie dafür, daß dies Recht als ein rein persönliches müsse betrachtet werden, und glaubten durch die politischen

Verhältnisse sich aufgefodert, die ehrfurchtsvolle doch dringende Bitte zu stellen: Euere Majestät wolle sich bereit erklären, das erwähnte Recht nicht ohne Beirath katholischer Bischöfe zu üben, und die Bischöfe der Kirchenprovinz, welcher der erledigte Sitz angehört, dabei niemals zu übergehen.“

Unstreitig ist dies wichtige Recht von dem persönlichen Verhältnisse abhängig, in welchem der katholische Landesfürst zur katholischen Kirche steht; denn einem nicht katholischen Landesfürsten ist es niemals und nirgends zuerkannt worden. Auch liegt es am Tage, daß es zu zweckmäßiger Uebung desselben von großem Nutzen sei, sich des Rathes von Bischöfen zu bedienen, und daß die Bischöfe der Kirchenprovinz, wo das Bisthum erledigt ist, mit den zu beachtenden Verhältnissen in der Regel am besten bekannt seien. Euere Majestät dürften sich daher bewogen finden, dem Ausschlusse der bischöflichen Versammlung in dieser Beziehung eine beruhigende Erklärung ertheilen zu lassen.

Ueber die Form, in welcher diese Ernennungen künftig zu geschehen haben, stellen sich nähere Bestimmungen als wünschenswerth dar. Dies gilt auch von Rechten, welche dem Landesfürsten in Betreff der Besetzung anderer kirchlichen Aemter und Pfründen zustehen. Euere Majestät dürften daher anzuordnen geruhen, daß über die Form, in welcher die landesfürstlichen Rechte in Betreff der Besetzung kirchlicher Aemter und Pfründen künftighin geübt werden sollen, eine Verhandlung eingeleitet, und in so weit es erforderlich ist, im Einvernehmen mit dem päpstlichen Stuhle herbeigeführt werde.

Dieses Einvernehmen dürfte sich auch auf die Regelung des Einflusses zu erstrecken haben, welcher der Regierung Euerer Majestät gewahrt werden muß, um von geistlichen Aemtern und Pfründen, zu welchen nicht Euere Majestät ernennen, Männer ferne zu halten, deren Wirksamkeit der bürgerlichen Ordnung Gefahr drohen würde.

Ueber die Befähigung von Domherrenstellen haben die versammelten Bischöfe erklärt: „Damit die Dom Capitel ihrem Zwecke genügen, und ihre bevorzugte Stellung in würdiger Weise behaupten können, sei es nothwendig, die Bürgschaften für die vorzugsweise Befähigung ihrer Mitglieder nicht zu vermindern, sondern zu vermehren. Sie erkennen daher die Heilsamkeit der bestehenden Anordnung, in Folge derer zu Erlangung von Domherrenstellen eine zehnjährige kirchliche Dienstleistung erforderlich ist, und versprechen die nöthigen Einleitungen zu treffen, um diese von der Staatsgewalt erlassene Bestimmung auf das kirchliche Gebiet zu übertragen.“ Der Regierung Euerer Majestät kann es nur wünschenswerth sein, daß eine Verfügung, durch welche man dem Verdienste und der Erfahrung den Vorzug zu sichern strebte, die kirchliche Anerkennung erhalte.

In demselben Geiste haben die versammelten Bischöfe sich dahin geäußert. „Die katholische Kirche sei stets von dem Grundsatz ausgegangen, daß bei Verleihung von kirchlichen Aemtern und Pfründen nur auf Frömmigkeit, Kenntnisse und Verdienste Rücksicht zu nehmen sei; sie wünschen daher und werden dahin wirken, daß auch jene Domherrenstellen, zu deren Erlangung noch adelige Abstammung gefordert wird, an den würdigsten ohne Rücksicht auf seine Geburt verliehen werden; doch solle dies auf gesetzmäßigen Wege, und ohne Verletzung von bereits erworbenen Rechten geschehen.“

Sie fügen hinzu: „Nicht nur um die Lücken auszufüllen, welche durch das allmälige Erlöschen der Domicilar-Canonicate in den Wahlcapiteln zu Salzburg und Olmütz entstehen werden, sondern auch um der Wahl größere Würde zu geben und den Zusammenhang der Bischöfe mit dem Metropolitan-Sitze fester zu knüpfen, stelle es sich als wünschenswerth dar, daß die Bischöfe der Kirchen-Provinzen Salzburg und Olmütz das Stimmrecht bei Erwählung des Metropoliten erhalten. Um die Wähler auf eine größere Zahl, — allenfalls auf fünfundzwanzig — zu bringen, würde es zweckmäßig sein, einer entsprechenden Zahl von Ehrenomherren das Wahlrecht zu verleihen.“

Der Regierung Euerer Majestät kann es nur willkommen sein, wenn ein Grundsatz, an welchem sie bei Verleihung von Staatsämtern stets festhalten wird, auch in Bezug auf kirchliche Würden volle Geltung erlangt. Auch die Bestimmungen, welche die versammelten Bischöfe bei der Wahl der Erzbischöfe von Salzburg und Olmütz eingeführt zu sehen wünschen, erscheinen als vollkommen zweckmäßig.

Geruhen Euere Majestät Allergnädigst zu genehmigen, daß den Bischöfen zur Durchführung dieser Bestimmungen die kräftigste Unterstützung der Regierung, in so weit sie dazu mitzuwirken berufen ist, zugesichert werde.

Das Kirchengesetz verordnet, daß zu Besetzung erledigter Pfarren ein Concurs ausgeschrieben, und die Befähigung der Bewerber durch dazu bestellte Examinatoren geprüft werde. Diese zweckmäßige Maßregel ward in Oesterreich von der politischen Gesetzgebung gänzlich in ihren Bereich gezogen.

Staatsverordnungen regelten die Art und Weise der Prüfung, so wie die Verbindlichkeit, sich derselben zu unterziehen, und die Zeit, für welche die mit Erfolg bestandene Prüfung Geltung hatte; vom Staate waren die Professoren der theologischen Lehranstalt als Examinatoren aufgestellt, nur der Examinator aus der Dogmatik blieb dem Bischofe zu freier Auswahl überlassen, an die Landesregierung hatte man sich um Dispens von der Concursprüfung zu wenden.

Die versammelten Bischöfe haben das Recht, die Befähigung zur Uebung der Seelsorge zu beurtheilen, für die geistliche Gewalt in Anspruch genommen, und die Staatsgewalt kann ihr im Hinblick auf §. 2 des Allerhöchsten Patentes vom 4. März 1849 dieses Recht nicht streitig machen. Allein auch für den Staat ist es von Wichtigkeit, daß die Befähigung von Männern, welche als Pfarrer wirken sollen, auf eine zweckmäßige Weise geprüft werde; die Regierung muß wünschen, daß in dieser Beziehung in den verschiedenen Diöcesen ein gleichmäßiger Vorgang beobachtet werde. Sie muß wissen, welche Bürgschaft für die Befähigung der Seelsorger durch die Einrichtung der Concurs-Prüfung geboten ist, um beurtheilen zu können, in wie weit und unter welchen Bedingungen sie ihnen ihrerseits in Beziehung auf die Schule, das Armenwesen und die Ehe-Angelegenheiten Functionen übertragen kann, deren Verbindung mit dem geistlichen Amte für den Staat, wie für die Kirche wünschenswerth ist.

Die Regierung Euerer Majestät darf und muß daher das Verlangen stellen, daß die über die Concursprüfungen zu erlassenden Verfügungen, bevor sie in Ausführung kommen, zu ihrer Kenntniß gebracht werden, damit sie das, was sie von ihrem Standpunkte aus wünschen muß, in Anregung bringen, und auf allfällige Schwierigkeiten aufmerksam machen könne. Die versammelten Bischöfe haben nicht verkannt, daß die für die Pfarr-Concurs-Prüfung bisher geltenden Anordnungen vieles Zweckmäßige enthalten, und daß es nothwendig sei, überall, wo nicht ausnahmsweise Verhältnisse eine Ausnahme begründen, ein übereinstimmendes Verfahren zu beobachten. Deshalb haben sie sich über folgende Bestimmungen geeinigt:

„Die Pfarr-Concurs-Prüfung soll in jeder Diöcese jährlich zum wenigsten einmal und zwar mündlich und schriftlich vorgenommen werden.“

„Gegenstände dieser Prüfung sind: 1. Dogmatik, 2. Erläuterungen der heiligen Schrift nach der Vulgata, Moral und Pastoral sammt Liturgik mit vorherrschend praktischer Richtung, 4. Kirchenrecht, 5. Vollständiger Entwurf und theilweise Ausarbeitung einer Predigt, 6. Mündlicher Vortrag, 7. Katechese.“

„Zur Erlangung jedes Amtes selbständiger Seelsorge ist erforderlich, daß der Bewerber die Pfarr-Concurs-Prüfung mit gutem Erfolge bestanden habe.“

„In wie fern für Canonicate, mit welchen zwar die Verpflichtung zur Seelsorge, aber kein selbständiges Seelsorgeramt verbunden ist, die Pfarr-Concurs-Prüfung nothwendig sei, bleibt dem Ermessen des Diöcesan-Bischofs überlassen.“

„Zur Pfarr-Concurs-Prüfung sollen nur solche zugelassen werden, welche seit wenigstens drei Jahren die Befugniß zur Verwaltung der Seelsorge erlangt haben.“

„Die Concurs-Prüfung hat in der Regel für sechs Jahre zu gelten, doch kann durch Provinzial-Concillium ein längerer oder kürzerer Zeitraum bestimmt werden.“

„Nur die diensthutenden oder emeritirten Professoren der Theologie, jene Doctoren der Theologie, welche zur Erlangung dieser Würde sich den strengen Prüfungen unterzogen, und solche Männer, welche sich in einem theologischen Fache als Schriftsteller ausgezeichnet haben, dürfen von Ablegung der Pfarr-Concurs-Prüfung dispensirt werden.“

„Von Wiederholung derselben kann der Bischof auch solche loszählen, welche als Seelsorger oder in anderer Weise ihre theologischen Kenntnisse hinreichend erprobt haben.“

„Kein Bischof ist verbunden, die Pfarr-Concurs-Prüfung, welcher sich ein Bewerber in einer fremden Diöcese unterzogen hat, als für Pfünden seines Sprengels genügend anzuerkennen.“

Diese Anordnungen enthalten nichts, wogegen die Regierung Einsprache erheben müßte; im Gegentheile genügen sie jedem Interesse, welches der Staat an der Einrichtung dieser Prüfung haben kann. Allein es liegt keine Bürgschaft vor, daß die gefaßten Beschlüsse von den Bischöfen und ihren Nachfolgern, als sie rechtlich verbindend angesehen werden. Mit Rücksicht auf dieses Verhältniß glaubt der treuehorsaamste Ministerrath den ehrfurchtsvollen Antrag stellen zu sollen, Euerer Majestät geruhen anzuordnen, daß die vollständige Durchführung der von den versammelten Bischöfen über die Pfarr-Concurs-Prüfung getroffenen Bestimmungen kein Hinderniß finde, unter dem Vorbehalte, daß dieselben nicht ohne mit der Regierung gepflogene Rücksprache abgeändert werden, und daß wo und in so weit als diese Beschlüsse nicht zur Richtschnur genommen werden, bei der Pfarr-Concurs-Prüfung nach den bisherigen Anordnungen vorgegangen werde.

Von der Ansicht ausgehend, daß Alles, was auf den Staat Einfluß nehmen könne, der Verfügung des Staates unterstehe, erließ die österreichische Gesetzgebung, über den Gottesdienst der katholischen Kirche die genauesten Anordnungen, deren viele jedoch längst in Vergessenheit gerathen sind. Dagegen erklären die versammelten Bischöfe mit Berufung auf §. 2 der Grundrechte, daß sie fernerhin den Gottesdienst, und alles darauf Bezügliche inner der Grenzen der allgemeinen Staatsgesetze selbständig anordnen, und nur den Geist und die Gesetze der katholischen Kirche dabei zur Richtschnur nehmen werden. Der treuehorsaamste Ministerrath muß den von den Bischöfen erhobenen Anspruch als begründet erkennen.

Allerdings ist es für die Regierung von Wichtigkeit, daß das Recht, den Gottesdienst zu ordnen, stets mit weiser Vorsicht geübt werde, um so mehr, da die Versammlungen, welche die Ausübung eines gesetzlich gestatteten Cultus zum ausschließlichen Zwecke haben, von den gesetzlichen Beschränkungen des Versammlungsgesetzes entbunden sind. Auch hat die Staatsgewalt unstreitig wie das Recht, so auch die Pflicht, Fürsorge zu tragen, daß nicht unter dem Vorwande gottesdienstlicher Handlungen die Ruhe gestört, oder die Sicherheit gefährdet werde, und der treuehorsaamste Ministerrath behält sich vor, zu diesem Zwecke Euerer Majestät gesetzliche Bestimmungen vorzuschlagen, welche sich auf den Gottesdienst aller Religions-gesellschaften zu beziehen haben werden. Aber die versammelten Bischöfe haben ausgesprochen, daß sie es sich zur Pflicht machen, Alles, was an der bestehenden Gottesdienstordnung zweckmäßig und heilsam ist, sorgsam aufrecht zu halten, und daß keine Abänderung ohne Zustimmung der Provinzial-Synode gemacht werden solle; sie haben ausgesprochen, daß sie in der veränderten Stellung der Gesetzgebung eine doppelte Aufforderung finden, jeder willkürlichen Neuerung und jedem Mißbrauche, welcher sich beim Gottesdienste einschleichen könnte, mit unermüdlicher Thätigkeit zu begegnen. Zwar lehrt auch hier die Schwierigkeit hinsichtlich der Geltung der Beschlüsse zurück. Dennoch glaubt der treuehorsaamste Ministerrath in Berücksichtigung des der Kirche verbürgten Rechtes, die kirchlichen Angelegenheiten, zu welchen der Gottesdienst vor Allem Andern gehört, selbstständig zu ordnen, darauf einrathen zu sollen, Euerer Majestät geruhen zu genehmigen, daß es jedem Bischofe frei stehe, den Gottesdienst seiner Diöcese im Sinne der eben erwähnten, von den versammelten Bischöfen gefaßten Beschlüsse zu ordnen und zu leiten.

Die versammelten Bischöfe haben endlich auch die Bitte gestellt: „Daß die Regierung Euerer Majestät der Feier des Sonntages und der wenigen katholischen Feiertage ihren Schutz nicht entziehe, und wie bisher Alles, was die Heiligung dieser Tage stört, ferne halte.“

Der treuehorsaamste Ministerrath erkennt die Nachtheile und Störungen, welche entstehen müßten, wenn dieser Gegenstand dem Bereiche polizeilicher Aufsicht gänzlich entzogen würde, und die Staatsgewalt in keiner Beziehung die Rücksichten, welche die Staatsbürger einander hinsichtlich der äußern Darstellung ihrer religiösen Ueberzeugung schuldig sind, durch ihr Einschreiten aufrecht halten wollte. Die eigenthümlichen Verhältnisse einzelner Kronländer bieten jedoch in dieser Beziehung Schwierigkeiten, welche es nothwendig machen, die genaue Regelung des Gegenstandes einem späteren Zeitpunkte vorzubehalten; Euerer Majestät dürften sich jedoch bewegen finden, anzuordnen, daß indessen die Behörden angewiesen werden, auf Grundlage der bestehenden Gesetze darüber zu wachen, daß an Orten, wo die katholische Bevölkerung die Mehrzahl bildet, die Feier der Sonn- und Festtage nicht durch geräuschvolle Arbeiten oder durch öffentlichen Handelsbetrieb gestört werde.

Geruhen Euerer Majestät den gestellten Anträgen die Allerhöchste Genehmigung zu ertheilen, und den ehrfurchtsvoll Unterzeichneten zu ermächtigen, die Eingaben der bischöflichen Versammlung in Gemäßheit der in diesem allerunterthänigsten Vortrage entwickelten Ansichten zu erledigen.

Wien, am 7. April 1850.

Thun, m. p.

(Translation.)

Report on the transactions with the Catholic Bishops, relative to the regulation of Ecclesiastical Affairs, humbly submitted by Count Thun, your Majesty's most faithful and obedient Minister of Public Worship and Instruction.

Most gracious Sir,

AMONG the many important questions the solution of which cannot be dispensed with in the reorganization of Austria—which is the difficult but lofty task of your Majesty's Government—the question as to the mutual relation of State and Church is one of the most important; since it touches the religious convictions which are the sacred sanctuary of the individual, and at the same time the strongest and most efficient of all those powers which guide the progress of the development of nations and States. Nations and States in which religious convictions have lost their powerful influence upon minds, are rapidly advancing to a condition of internal decomposition; while those convictions last, ecclesiastical affairs react variously, energetically, and forcibly on common life. The people with whom both Church and State have to deal are the same. The Church endeavours to direct consciences through the influences of religion. The executive power of the State has the serious duty of protecting law and order, in case of need, by the application of external force; yet its power is paralyzed, unless its provisions find a support in the sense of duty. On the other hand, the Church requires also external means for its working, and in acquiring and preserving those means it claims the protection of the State. Thus on all sides Church and State are in contact. It is on that account that every great movement which takes place in the province of the one must extend its operation into the sphere of the other, and produce changes in their mutual position towards each other. The mutual relation of State and Church could not remain untouched by the movement which has seized Austria. In the days of fermentation, voices were heard on various sides crying with entirely opposite views for a separation of Church and State, and they are not quite silent yet. But your Majesty's Government, which, in that great moment when it was calling into existence a new constitution of Austria, was bound to weigh with quiet circumspection all the wishes and struggles of so many parties, could not think of entering upon a plan which has never been realized in any well-organized State. It is true there are countries where a regular communication exists between the Church and communities only, and not between the Church and Government, where, on the contrary, any mutual contact between these two latter powers is carefully avoided; and persons are not wanting who defend such an arrangement, though it has nowhere yet stood the test of a history which counts up the experience of centuries. At any rate it is in such a contradiction with the historical development and actual condition of Austria, that it becomes an impossibility to carry it into effect. The mutual relations of Government and Church in Austria might perhaps externally be declared abolished; but no power on earth would be able to call such an abolition actually into existence. On the contrary, even a mere declaration to that effect would not only produce unspeakable confusion in the religious affairs of the Austrian people, but would also be incompatible with the maintenance of the well-acquired rights of her Sovereigns, which your Majesty's Government could never recommend to be given up. In considering, therefore, the well-grounded desire that a freer sphere of action, such as was imperatively demanded in all departments, should also be conceded to the Church, the past should not be hastily disregarded, nor should impracticable promises be made. The Patent of the 4th of March, 1849, guaranteed, in § 2, to every Church and religious society recognized by law, the right to order and manage their own affairs independently, as well as that of the common and public exercise of their religion; and assemblies with the exclusive object of exercising a lawful worship are exempted from the restrictions imposed on popular assemblies by the Statute of Unions (*Vereingengesetz*); but by the same § 2 of the above-mentioned patent, it was also provided that every Church should remain in the possession and enjoyment of the institutions, foundations, and funds destined for its objects of worship, instruction, and charity, and should be like every other society, subject to the common laws of

the country. It was thereby legally established, that the Government recognized Churches and religious societies as such, and was ready to protect them. The development of ecclesiastical affairs on the basis of their actual condition and legal relation to the Government is guaranteed.

When your Majesty, by § 13 of the above-mentioned Patent of the 4th of March, 1849, commissioned your most faithful and obedient Council of Ministers to draw up and submit to your Majesty's sanction provisional ordinances for carrying out its enactments, until definitive laws should be established, it was necessary to obey this most gracious command with respect also to the assurances contained in § 2. In doing this, your Majesty's most faithful and obedient Council of Ministers were convinced of the necessity of directing their attention above all to the affairs of the Catholic Church, which includes amongst its adherents the great majority of the subjects of Austria, and which, throughout the whole empire, is most influential in establishing the life of the people on a moral foundation. By former legislation, the ecclesiastical and political affairs were in many ways intimately connected; to avoid serious confusion, it was necessary to apply carefully and circumspectly the principles laid down in § 2 to the individual cases contemplated in it. Moreover, the position recognized for the Catholic Church by virtue of § 2 has made it necessary to reorganize its position in relation to the State by way of mutual agreement. Your Majesty's Government thought, therefore, that so far as the affairs of the Catholic Church were concerned, they could not acquit themselves of the commission with which they were entrusted by § 13 of the Patent of the 4th of March, until they should have come to an understanding respecting it with the legal representatives of the Catholic Church. To that effect they issued invitations on the 31st of March last year to the bishops of those countries for which the common national rights granted on the 4th of March had been declared, calling on them to repair to Vienna, in order that the ministers might put themselves in immediate communication with them for deliberating on the position which the Catholic Church, on the basis of those statutory provisions, should henceforth hold in the empire. The invitations were readily corresponded to, and the assembled bishops, from the 30th April till the 17th June, held consultations, the result of which was laid before the Ministers under the date of the 30th May, and the 6th, 13th, 15th, and 16th June. Before terminating their meetings they elected a committee consisting of the Cardinal and Prince Archbishop of Salzburg, the Prince Bishops of Seckau and Laibach, the Rural Bishop, and the Bishop of Brunn, which is intended, according to the communication made the 17th June, to confer with your Majesty's Government on the subjects treated of by the Assembly. The written declarations which were laid before the Ministers by the by the Assembly comprise the subjects following :

1. An introductory declaration.
2. The government and administration of the Church, ecclesiastical offices, and benefices; the right of patronage; the examination of candidates for the ministry and public worship.
3. Spiritual jurisdiction.
4. Instruction.
5. Monastical affairs.
6. Questions concerning marriage.
7. Funds for the purposes of religion, universities, and schools.
8. Property attached to benefices and churches.

These heads sufficiently show the copiousness of the subject-matter, and the many and important affairs touched upon. The Assembly of Bishops, whilst zealously defending the claims of the Church, has laudably manifested the endeavour to place the maintenance of ecclesiastical rights in harmony with the essential interests of the State. Nevertheless, there are many difficulties in a definitive settlement of the questions involved in their communications.

As regards the funds devoted to religious purposes, universities, and schools, extensive alterations are demanded which are yet in consideration; the new

regulation of the administration of Church property and of the patronage is occasioned by reforms which are taking place in other departments. As to monastical affairs, it is the intention of the bishops to vivify and regulate them in a spirit corresponding with the exigencies of the time and in accordance with their ecclesiastical destination; and the unpleasant consequences which arise from the fact that many orders have lost the spirit of their institution, cannot but point out those exertions as highly desirable. Their immediate probable results, however, and the difficulties likely to arise from them, render it necessary to subject these affairs to further discussion. Regarding the marriage question, it is not without ground that claims are put forth by the Catholic bishops for alterations in the hitherto existing legislation. Also the superintendents and evangelical commissioners, whom your Majesty's Government likewise invited to a deliberation on the affairs of their fellow-believers, have in their communications expressed wishes which require careful consideration. The important questions called forth thereby which require a general settlement have already been subjected to a thorough examination by your Majesty's Government, who will, at no distant time, enter upon a closer discussion with the committee of bishops relative thereto. This discussion, however, cannot be brought to a conclusion without a previous understanding with the Apostolical See. The necessity of such an understanding is felt also in other respects.

The Assembly which was held was not an ecclesiastical synod, and its members, and more especially their followers, were not thereby legally bound to obey and carry out the resolutions taken by it. Touching those affairs, therefore, the appropriate reorganization of which depends upon concessions on the part of the Church, and for which suitable concessions have also been made by the Assembly of Bishops, there is no security that their resolutions shall everywhere and always serve as a rule for the ordinances of the bishops. That security can only be effected by an understanding with the Papal See, to say nothing of the fact that some questions require an immediate negotiation with the same.

There are various reasons, however, against postponing any settlement in ecclesiastical affairs, to a term when the preliminary conditions of definitive decisions shall have been completed for all subjects comprehended therein. All who take a lively interest in the Catholic Church wait impatiently for a speedy realization of the promises contained in the Patent of the 4th of March; and much as the delay which hitherto has taken place is justified by the present state of affairs, yet a longer delay could not but be prejudicial to a confidence in the intentions of the Government. Moreover, a state of indecision has the effect of paralyzing the inner vitality of the Church, a necessity for whose more powerful development is felt more and more generally, while the State authorities, wherever the old order of things is not in accordance with the new principles and is shaken by their announcement, have no fixed rules for their conduct in ecclesiastical affairs.

Your Majesty's most faithful and obedient Council of Ministers, after maturely weighing the state of affairs, is therefore of opinion, that without further delay all those questions raised by the Assembly of Bishops shall, where it is practicable, be determined provisionally; but that regarding the others, negotiations with the Committee of Bishops shall be continued, and the necessary preparations be made for a Concordat with the Apostolic See, so far as this will be required, and to that effect they request most humbly and submissively your Majesty's authorization.

The assembled bishops have in their introductory declaration of the 30th May, last year, expressed themselves in the first place generally as to the position claimed by the Catholic Church, and have stated their conviction that your Majesty's Government, whilst granting new rights to other religious societies, will recognize the old well-acquired rights of the Catholic Church, and will be ready to protect them.

May it please your Majesty to authorize your most faithful and obedient Minister of Public Worship and Instruction to declare that the bishops shall not be disappointed in that confidence. Your Majesty's Government has proceeded from the principle that those convictions which connect man with a higher world belong to the most sacred domain of freedom; and, in abstaining from operating even indirectly upon them, they have been guided by the persuasion that they are truly religious convictions; that is to say, such as serve as a firm support to those duties, the sacred observance of which is indispensable in a well-regulated

State. On that account, civil and political rights have been made independent of religious belief. And regarding the rights granted by § 2nd of the before mentioned Patent of the 4th of March, all churches and religious societies recognised by law have been placed on terms of equality. By this, however, the particular legal relations which in the course of centuries have developed themselves between the Sovereigns of Austria and the Catholic Church, are neither annulled nor questioned. Your Majesty's Government must then also feel itself called upon, while granting to every religious society the freedom guaranteed by law, to direct at all times their particular consideration towards the Church to which such a large majority of citizens look up for the promotion of their most important spiritual interests.

The declaration added to that § 2nd, that churches and religious societies, like every other society, are subject to the common laws of the State, has also been made by the assembled bishops the subject of an explanation, and has been understood quite in the sense of the legislator to refer to the discharge of those general civil duties, which, far from being prejudicial to the sphere of operation of the Church, are hallowed by the moral law which she teaches. The Catholic Church rests, moreover, on the firm ground of conviction that not only the doctrine concerning her faith and morals, but also the fundamental principles of her constitution have been communicated to her by divine revelation; she cannot, therefore, like other societies, make arbitrary alterations in her own statutes. Accordingly, any Power desirous of coming to an understanding with the Catholic Church respecting her position with respect to the same, must acknowledge those statutes,—a necessity which has never been disowned by your Majesty's Government.

As regards the questions mooted in the further communications by the Assembly of Bishops, the first consideration must be to abrogate and replace by new provisions those laws and statutes hitherto in force which militate against the realization of the position assigned to the Church in § 2nd of the Patent of 4th March, 1849.

For that purpose your Majesty's most faithful and obedient Council of Ministers respectfully beg to submit the inclosed ordinance for your Majesty's sanction.

Your Majesty will be pleased to give permission to the Undersigned to make the following remarks, for the purpose of explaining and establishing its substance :

The communication with the Apostolic See has hitherto been guarded by the law with very great precautions.

Every Papal edict—with the sole exception of dispensations by the penitentiary courts—was subjected to the *placet* of the Sovereign. This *placet* was granted to those edicts only which were issued through the mediation of the Imperial Agency established in Rome; and the latter was only allowed to act in matters conveyed to it through, or with the permission of, the authorities of the State.

The communication of the bishops with their dioceses was liable to considerable restrictions. No episcopal edict was printed without the permission of the Government; and pastoral and circular letters in which any obligation was enjoined, were not only necessarily laid before the Administrative Board, but also sent thence to the political Aulic Council, accompanied by any observations that might be thought proper. The assembled bishops have, in their communication of the 16th June, expressed their belief that by § 2nd of the Fundamental Law, the hitherto existing impediments to their communication with the Apostolic See are completely removed; and that henceforth neither they nor the faithful under their care will find any difficulty in applying to the Pope in spiritual affairs, or in receiving his ordinances and decisions. They further express their confident expectation that, in consequence of the independent administration of the Church being granted to them, they shall always be permitted to issue admonitions and ordinances to their dioceses on matters of their spiritual jurisdiction and power, without previous approval by the authorities of the State.

The continuation of the limitations which have hitherto existed, is in fact, in the opinion of the faithful and obedient Council of Ministers, no longer possible. They are constituent portions of a legislation which is explicable in the circumstances of the period in which it was developed, but which is incompatible with the essentially altered position of things now existing. That legislation

was intended, by a consistent guardianship over all departments of intellectual life, to obviate every abuse of free, independent action. Its efficacy depended upon its universality. It was consistent to apply it also in reference to the Church; but the restraints set upon the church would never have alone sufficed to prevent abuses dangerous to the State; and they have always proved powerless where the possessors of ecclesiastical power wished to abuse it, and political events afforded an opportunity; whilst under other circumstances they have sunk into useless formalities. They moreover always crippled wholesome independent action, which everywhere springs only from the feeling of individual responsibility, and they nourished that spirit of mistrust and suspicion which is always detrimental to the Church as well as to the State. This disagreeable spirit your Majesty has banished from Austrian legislation; to retain it now only in respect of the Church, would be just as unworthy of the Government, as irreconcilable with the rights guaranteed in the second section of the Imperial Patent of the 4th March, 1849.

The intimate union which exists between the Austrian States and the Catholic Church, and which also the bishops do not wish to see dissolved, requires on the contrary, that they should in future act more in concert with the Government, and that therefore those rescripts of the bishops which carry with them any public result, or which are to be made public, should be communicated simultaneously to the proper authorities of Government. If, besides, the bishops are no longer compelled in their intercourse with the Papal See to employ exclusively the agents of the Imperial Government at Rome, it is very desirable that they should in future employ in their party affairs one chosen by election from among themselves, in order thereby to avoid the inconveniences which must frequently attend the employment of self-interested private agents.

The assembled bishops have shown that they wish to resuscitate the Provincial Councils, and have notified their intention to renew, under certain conditions, the Diocesan Synods. The Austrian Government has never forbidden the holding of Provincial Councils and Diocesan Synods, still less could it at present hinder these assemblies from being again established under the conditions prescribed by ecclesiastical law. There is, therefore, in this respect, no occasion for a legal regulation; the Government of your Majesty has, nevertheless, grounds to desire and a right to expect that it should be informed of the resolutions under which the Convocation shall be called, and that the regulations passed by the Provincial Councils or in the Diocesan Synods, should be communicated to the Government authorities, to the same extent and in the same way as the rescripts of the bishops.

May it please your Majesty to permit that this expectation shall be expressed when vacancies occur in the presentation to bishoprics.

Ecclesiastical jurisprudence has experienced in Austria hindrances which subsequently have been in fact almost entirely removed. The boundary line of its lawful authority has been sought in the distinction between purely spiritual matters and purely civil or mixed affairs.

As, however, all the subjects of ecclesiastical legislation in the true measure of their importance, exhibit a reaction upon civil life, the competence of the spiritual jurisdiction must through that distinction almost entirely disappear; and in like manner the correctional power over the servants of the Church has been almost entirely referred to the united official administration of the secular and spiritual authorities.

The older legislation united civil penalties with the punishments of the Church. Occasion was thus given to make the determination of ecclesiastical punishments dependent upon the judgment of State authorities, and this limitation was retained when the law which united secular consequences to ecclesiastical punishments was set aside.

The assembled bishops have declared in their letter (zuschrift) of the 16th of July, that if the vital action of the Church is to be efficiently renewed, it must enter again into the exercise of its rights in regard to spiritual jurisdiction; and they have expressed themselves in the following terms, upon the position which they claim in this respect:—

“It is the spiritual power which has to decide, in conformity with the canons of the Church, on the rights and obligations appertaining to, or incumbent upon, the members of the Catholic Church, either in virtue of such mem-

bership or of some ecclesiastical office which they have undertaken. If the member of a society does not fulfil the duties required of him in that capacity, he cannot claim any participation in the benefits of that society. If the functionary of a society acts contrary to his instructions, he can be deprived of his appointment and of the advantages connected therewith, under conditions which are to be more particularly determined by the society's constitution. The Catholic Church having to fulfil a sublime and blessed mission, cannot forego any rights which she has in common with every legal society. The spiritual power has therefore the right, as regards the members of the Church who violate the obligations of their fellowship, to exclude them entirely or in part from the enjoyment of ecclesiastical benefits, and this is done by means of the greater or lesser excommunication.

"The punishments awarded by the Church having no longer any retrospective influence upon civil rights, it does away with the argument appealed to by the Executive Power when it made the awarding of ecclesiastical punishments more or less dependant on its assent. More especially respecting the funeral solemnities of the Church, it is the province of the latter alone to have control over the same, and indeed not merely in consequence of her power of punishing, but also because she alone can ordain ecclesiastical prayers and benedictions. The assembled bishops are, however, ready to admit that if ecclesiastical punishments are to effect their object by promoting the seriousness of Christian life and the zeal of the Christian community, they must be applied with a due regard to existing circumstances: and the said bishops make it a point always to exercise their power of punishing with great circumspection.

"With regard to those who do not administer the ecclesiastical offices according to their engagements, the spiritual power alone has the right to suspend or to depose them in the manner determined by ecclesiastical law, as also to deprive them of the revenues attached to the office. The assembled bishops take it for granted that in case of need the Executive Power will not refuse its assistance in the execution of sentences which the spiritual courts may award within the indicated limits, and with due observance of all legal requisites."

Your Majesty's most faithful Ministerial Council, with due deference, are of opinion that the existing enactments are no longer applicable. It is undoubtedly very desirable that the Church and the Executive Power, in their respective administration, may never lose sight of the inseparableness of their mutual interests. But even in domestic life many things take place which have indirectly a strong bearing upon the State, and which, nevertheless, cannot be left to its adjudication without destroying all liberty and at the same time attempting an utter impossibility. This applies equally to the Church.

In order to act in accordance with § 2 of the Patent, the Church can no longer be debarred from making an independent use of her punishing power, which she derives from her inherent authority, and which she puts in force without the application of external coercion. But whenever she requires her awards to be carried out by external coercive measures, then the Executive Power cannot lend her its secular arm without a security for the legal procedure of the spiritual courts.

With regard to this the assembled bishops observe: "Considering that it was expedient that in judicial proceedings regard should be had to the habits and wants of Christian countries, whilst in their dioceses the development of such prescriptive rights had been kept in abeyance by the many years' interruption which the spiritual courts have suffered, every preliminary arrangement would be made, with the view of arriving in a legal way at the necessary particularization." It must be the desire of your Majesty's Government to have these preliminary arrangements expedited as much as circumstances will allow, and to receive a report of the result. Meantime, in case the spiritual authority should apply for the aid of the Executive Power, the latter must reserve to itself the right of inspecting the record of examination, in order to be convinced that the procedure is in complete accordance with the ecclesiastical laws, which in this respect are alone to be considered. The more liberty, however, the Church obtains for using its own power, the more important will it be to the State that this power be not entrusted to hands which might use it in a manner dangerous to the social community. In as far as such an improper use assumes the nature of a crime or transgression, the guilty party becomes subject

to the secular criminal courts. But to the servant of the Church rights are conceded, by the improper use of which, even without subjecting him to the penal laws, he may become dangerous to the State; and no Government can allow such improper use, without betraying its duty as the guardian of order.

The assembled bishops, acting in the spirit of the Church they represent, have declared that only those are worthy of spiritual offices and benefices, who are qualified by words and deeds to be a pattern to the Christian community with reference to every Christian virtue, as well as to the fulfilment of duties towards the civil power. Your Majesty's Government trusts that the heads of the Catholic Church will act upon this principle with regard both to the candidates for spiritual offices and the ecclesiastics already appointed, and that they will at all times lend their hands to render innoxious such ecclesiastics as might become dangerous to the State by the improper use of their sacred functions. Under this supposition, the said Government thinks that the respect due to the Catholic Church will render it incumbent, if such lamentable incidents should occur, to proceed always, in the first instance, against the culpable party in communication with the bishop whom it may concern, or, where the case requires, with the Papal See.

May it therefore please your Majesty to let it be enacted that, whenever an ecclesiastic should take an improper advantage of his position, by abusing the rights which are given to him for ecclesiastical purposes, so that his removal from his office may appear necessary to the Government, then the secular authorities shall, in the first instance, put themselves in communication with his spiritual superiors.

The assembled bishops have justly declared it to be proper that, whenever an ecclesiastic is found guilty by the temporal courts of a crime or transgression, the bishop should have the opportunity, previous to awarding any spiritual punishment, to judge for himself of the degree of guilt which the convicted party has incurred with relation to the Church. It has already been enacted by the existing laws, that he is to be apprized of the condemnation, previous to the punishment being carried into execution. The assembled bishops have expressed the wish that the communication of the records of procedure, if asked for, should not be refused. Your Majesty may perhaps most graciously approve that this communication of the records, although it has not been refused hitherto, may expressly be rendered obligatory with the courts.

The subjects which have been disposed of in the accompanying ordinance are altogether such as refer entirely to the removal of the limitation created by existing enactments.

The other points submitted by the bishops, and which are yet to be disposed of, require to be treated separately. The Undersigned humbly begs to reserve the question of education for a separate report while he makes on the remaining subjects the following observations. The assembled bishops, by their communication of the 30th May of last year, have declared, "that they respect all the rights which the Executive Power can claim in relation to the Church, such as emanate from the nature of the Executive Power, as well as those acquired by the Monarch in virtue of particular legal reasons. In conformity with this declaration, they also concede to the Sovereign the right of designating the party who is to be raised to the bishopric; they do, however, conceive that this right should be looked upon as a mere personal one; and they think that political circumstances render it incumbent upon them to submit the respectful but urgent request, that your Majesty may express your willingness not to exercise the above right without the concurrence of Catholic bishops, and never to neglect in such a case the bishops of the ecclesiastical province to which the vacant see may belong.

This important right depends, without any doubt, on the personal relation in which the Catholic Sovereign stands to the Catholic Church, for it has never and nowhere been conceded to a non-Catholic Sovereign. It is also clear that it must be very advantageous to its proper exercise to have the advice of bishops, and that the bishops of the ecclesiastical province in which the episcopal see has become vacant are generally best acquainted with the existing circumstances. Therefore, your Majesty may perhaps feel disposed to cause a satisfactory declaration on this matter to be communicated to the Committee of the assembled bishops.

With regard to the form in which these nominations are henceforth to be

conducted, it appears to be desirable to provide for it more distinctly. This applies also to rights which belong to the Sovereign concerning the appointment to other ecclesiastical offices and benefices. Consequently, your Majesty may perhaps be pleased to order that, with respect to the form in which the rights of the Sovereign concerning the appointment to ecclesiastical offices and benefices are to be exercised in future, a negotiation should be entered upon, and, as far as necessary, be carried out in understanding with the Papal See.

This understanding ought likewise to include the regulation of the influence which must be secured to your Majesty's Government, in order that those ecclesiastical offices and benefices, to which the appointment does not rest with your Majesty, may be withheld from parties whose agency might become detrimental to social order.

On the efficiency of prebendaries the assembled bishops have declared: "In order that the chapters may answer their purpose and be able to maintain in a dignified manner their privileged position, it would be necessary not to lessen the securities for the pre-eminent efficiency of the members, but, on the contrary, to increase the same. They acknowledge, therefore, the efficacy of the existing regulation, according to which it requires an ecclesiastical service of ten years in order to obtain a prebend; and they promise to make the necessary arrangements that the regulation of the Executive Power be also extended to the action of the Church." It must prove satisfactory to your Majesty's Government that an arrangement intended to secure a preference to merit and experience does receive a recognition by the Church.

In the same spirit the assembled bishops have expressed themselves as follows: "The Catholic Church has always acted upon the principle that in the bestowing of ecclesiastical offices and benefits, regard should be had only to piety, learning and merit; therefore their desire, which they would endeavour to carry into effect, is that those prebends, for the obtaining of which a noble descent has been requisite, should be bestowed upon the worthiest, without regard to birth; this, however, should be brought about in a legal manner, and without infringing established rights."

They add further: "Not only for the sake of filling up the vacancies which will occur in consequence of the gradual extinction of the junior canonries in the elective chapters of Salzburg and Olmütz, but also, in order to invest with greater dignity the election and to cement more closely the connexion of the bishops with the metropolitan see, it would appear desirable that the bishop of the ecclesiastical provinces of Salzburg and Olmütz should obtain the right of voting for the election of the metropolitan. In order to increase the number of the electors—perhaps to twenty-five—it would answer the purpose to grant the elective right to an adequate number of honorary prebendaries."

It cannot but be gratifying to your Majesty's Government to find that a principle which will always be adhered to in bestowing State offices does likewise meet with full recognition in regard to Church preferments. Consequently the arrangements which the assembled bishops wish to see introduced for the election of the Archbishops of Salzburg and Olmütz appear to be entirely to the purpose.

With reference to the execution of these arrangements, may it please your Majesty to cause an assurance to be given to the bishops, of a most effective support, so far as the Government is called upon to co-operate.

For the filling up of vacant benefices the ecclesiastical law directs that a meeting of candidates shall be summoned, and their fitness tested by examiners appointed for the purpose. In Austria this practical measure was taken entirely into its own hands by the political Legislature. State enactments regulated the nature and manner of the examination, as well as the period for which the successful examination should continue valid. The State appointed the Professors of the Theological Seminary as examiners; the examiner in Dogmatic Theology alone was left to the free selection of the bishop, and the Government had to be applied to for exemption from the competition examination.

The assembled bishops have claimed for the spiritual power the right of judging as to fitness for exercising the cure of souls; and the secular power cannot, considering sect. 2 of the Imperial Edict of March 4, 1849, dispute this right. But it is also of importance to the State, that the fitness of the persons who are to act as parochial clergymen, be tested in an efficient manner; it cannot but be the wish of the Government that in this respect the proceedings

in the different dioceses should be uniform. It must be informed what security is offered for the fitness of those having the cure of souls, by the arrangements of the examination, in order to be able to judge how far, and under what conditions it can on its own part consign to them functions relating to education, the management of the poor, and the circumstances relating to marriages; the connexion of which with the ecclesiastical office is desirable both for the State and the Church.

Your Majesty's Government may and must therefore express the desire that the enactments to be authorized relative to the examination for the ministry, may be made known to it prior to their being put in execution, in order that it may have an opportunity of suggesting what may seem desirable from its own point of view, and of calling attention to any difficulties which may occur. The assembled bishops have not failed to notice that the regulations hitherto in force for the examination for the ministry are much to the purpose, and that it is necessary to observe a consistent procedure in every case, unless peculiar circumstances authorize an exception. They have, therefore, unanimously agreed upon the following resolutions:—

"The examination for the ministry shall take place once a-year at least in every diocese, and shall be conducted both orally and in writing.

"The objects of this examination are:

"1. Dogmatic Theology.

"2. Explanations of the Scripture according to the Vulgate.

"3. Morals, and Pastoral and Liturgic Theology, with a predominant practical tendency.

"4. Ecclesiastical Law.

"5. The Plan of a Sermon as a whole, and the elaboration of the same in its several divisions.

"6. Oral Delivery.

"7. Catechising.

"For the attainment of every office importing an independent cure of souls, it is required that the candidate shall have passed the examination for the ministry with approbation.

"How far an examination is necessary for canonries with which the cure of souls is connected, but no independent office importing a cure of souls, is left to the judgment of the diocesan.

"Those only shall be admitted to an examination for the ministry who shall have obtained for three years at least the authority to hold a cure.

"The examination shall regularly be available for six years; but a shorter or longer interval may be determined by a provincial council. None but acting or past professors of theology, those doctors of theology who have undergone severe examinations for the attainment of the dignity, and such persons as have distinguished themselves as writers in some department of theology, can be exempted from an examination.

"The bishop may also exempt from a repetition of the same, such persons as shall have sufficiently evidenced their theological acquirements, either as pastors or in any other way. No bishop is bound to recognize the examination which a candidate shall have undergone in another diocese, as sufficient for a benefice in his district."

These regulations contain nothing against which the Government should raise an obstacle; on the contrary, they satisfy every interest which the State can have in the arrangements of this examination.

But there appears to be no security that the resolutions passed by the bishops and their successors shall be considered as binding in point of law. With reference to this consideration, the Ministerial Council considers it its duty respectfully to propose that your Majesty would be pleased to command that the complete carrying out of the resolutions of the assembled bishops regarding the examination for the ministry shall encounter no impediment, with the proviso that they shall not be altered without previous communication with the Government, and that where and to whatever extent these resolutions shall not be received as the standard, the proceedings at the examination for the ministry shall be according to the enactments hitherto existing.

Proceeding upon the ground that whatever might exercise an influence upon the State should be subject to the control of the State, the Austrian Legislature issued the most precise regulations relative to the divine service of the

Catholic Church, many of which, however, have long since fallen into desuetude. On the other hand, the assembled bishops declare, with an appeal to § 2 of the Constitution, that in future they will regulate the divine service, and everything relating thereto, independently, within the bounds of the general laws of the State; and in doing so, will only be guided by the spirit and the laws of the Catholic Church. The Ministerial Council must acknowledge the claim of the bishops to be well-founded.

It is certainly of importance to the Government that the right of regulating divine service should always be exercised with wise precaution; the more especially as the congregations whose exclusive aim is to exercise a legally-authorized worship, are exempted from the restrictions imposed by the laws relating to assemblages. It is also unquestionably the right as well as the duty of the secular power to take care that the peace shall not be broken, nor security endangered, under pretext of religious practices; and the Ministerial Council reserves to itself to propose to your Majesty legal measures having this object, and which will have to bear upon the divine service of all religious societies. But the assembled bishops have declared that they consider it their duty carefully to uphold whatever is efficient and salutary in the existing regulations for divine service; and that no alteration should be made without consent of the Provincial Synod. They have declared that in the altered position of the Legislature they find themselves doubly called upon to oppose every arbitrary innovation and every abuse that might creep into the divine service, with untiring activity. Here indeed the difficulty again occurs as to the legal force of these resolutions. The Ministerial Council, however, taking into consideration the right secured to the Church of independently regulating ecclesiastical affairs, of which divine service is the principal, thinks it its duty to advise that your Majesty would please to consent that every bishop may be at liberty to regulate and conduct the divine service of his diocese according to the tenor of the above-mentioned resolutions of the assembled bishops.

Finally, the assembled bishops have also made the request, "That your Majesty's Government would not withdraw its protection from the celebration of Sunday, and of the few Catholic festivals; but that it would prevent, as hitherto, whatever interferes with the holy keeping of those days."

The Ministerial Council is aware of the disadvantages and disturbances which must arise if this matter should be entirely withdrawn from the control and superintendence of the police; and if the secular power should not by its interference maintain in some respect those considerations which citizens owe to each other in reference to the external exhibition of their religious convictions. But the peculiar circumstances of certain of the Imperial territories offer difficulties in this respect which render it necessary to leave the exact determination of this matter to a later period; your Majesty might, however, feel inclined to command that in the meanwhile the authorities be instructed, in virtue of the existing laws, to take care that in places where the Catholic population forms the majority, the celebration of Sundays and festivals be not disturbed by noisy trades or public traffic.

May it please your Majesty to give your Imperial consent to these proposals, and to empower the Undersigned to answer the petition of the episcopal assembly, in conformity with the views developed in this statement.

Vienna, April 7, 1850.

(Signed) THUN.

Allerunterthänigster Vortrag des treuehorsaamsten Ministers des Cultus und Unterrichts, Grafen Thun, über die Beziehungen der katholischen Kirche zum öffentlichen Unterrichte.

Allergnädigster Herr!

Die im Laufe des vorigen Sommers in Wien versammelten Bischöfe haben der Frage des christkatholischen Unterrichts die ihr gebührende sorgfältige Beachtung gewidmet, und ihre Ansichten darüber, wie ihre Wünsche in der beiliegenden Eingabe vom 15. Juni v. J. niedergelegt.

Sie gehen dabei von dem Grundgedanken aus, daß die sittlichen Ueberzeugungen, welche in dem Volke und in allen Schichten desselben lebendig sein müssen, wenn nicht auch die staatliche Ordnung der Auflösung zugeführt werden soll, nur in der Religion dauerhafte Bürgschaft finden; daß aber jeder Versuch der Staatsgewalt, auf dem Gebiete der Religion selbstständig zu verfügen, eine Quelle von Streitigkeiten und Wirren in oder der religiösen, und mit denselben die sittlichen Ueberzeugungen erschüttern müsse. Indem sie anerkennen, daß die Leitung des Unterrichts unter die wichtigsten Aufgaben gehöre, welche sich der Staat auf seiner gegenwärtigen Entwicklungsstufe stellt, nehme sie gleichwohl die Freiheit in Anspruch, den Un-

terrichtet der Katholiken, in so weit er die religiösen und sittlichen Ueberzeugungen betrifft, nach den Gesetzen und im Geiste der katholischen Kirche zu leiten.

Die Kenntnisse, welche der Mensch erwirbt, sind eine Macht, die er dem Guten oder dem Bösen dienstbar machen kann.

Der Gebrauch, den er davon machen wird, hängt vorzüglich von seinen sittlichen Ueberzeugungen ab, und die unentbehrliche Grundlage der sittlichen Entwicklung der Menschen ist allerdings die Religion. Eben deshalb ist ihr lebendiger Einfluß auf die Erziehung ein in der menschlichen Natur gegründetes unabweisliches Bedürfnis. Dieser Einfluß kann aber nur dann ein lebendiger sein, wenn der Religionsunterricht mit dem anderweitigen Unterrichte in innigem Zusammenhange steht. Nur wer die Bedingungen der geistigen Entwicklung des Menschen und der eigentlichen Bildung nicht kennt, kann an die Möglichkeit glauben, den Religionsunterricht als etwas abgesondert für sich Bestehendes zu behandeln, ohne seine Wirksamkeit auf die jugendlichen Gemüther dem Zufalle Preis zu geben.

Der treuehorsaamste Minister des Cultus und Unterrichts kann es daher nur billigen, wenn die Bischöfe nach einer Auscheidung des Religionsunterrichts eben so wenig, als nach einer Trennung von Kirche und Staat im Allgemeinen streben.

Die katholische Kirche kann nie und nirgend dem Anspruche entsagen, einen entscheidenden Einfluß auf den Religionsunterricht zu nehmen, und der §. 2 des Allerhöchsten Patenten vom 4. März 1849 verbürgt den Trägern der kirchlichen Autorität unzweifelhaft das Recht, den der Kirche gebührenden Einfluß selbstständig geltend zu machen.

Die Kirche wird immer verlangen, daß sie auch ihre eigenen Unterrichtsanstalten habe, ein Recht, welches nach §. 3 des Allerhöchsten Patenten gar nicht in Frage gestellt werden kann, und die Bischöfe werden in der Leitung der kirchlichen Unterrichtsanstalten vom Staate nicht beirrt werden dürfen.

Gingegen kann auch die Regierung auf die selbständige Leitung derjenigen Anstalten, die sie gründet, und für deren Zustand sie verantwortlich ist, niemals verzichten. Zugleich wird aber der kirchliche Unterricht nicht den Staat, und der Unterricht in den Staatsanstalten nicht die Kirche ignoriren dürfen.

Um heilsam und erfolgreich wirken zu können, wird vielmehr die Kirche in ihren Anstalten im Einvernehmen mit der Regierung, und die Regierung in den Staatsanstalten im Einvernehmen mit der Kirche vorgehen, und beide werden einander, um ihre eigenen Zwecke zu fördern, einen angemessenen Einfluß gewähren müssen. Ein solches Einvernehmen beruht seiner Natur nach auf gegenseitigem Vertrauen.

Es kann nicht durch Gesetze erzwungen werden. Wohl aber muß es ermöglicht werden, durch gesetzliche Vorschriften, welche jedem Theile das verbürgen, was er als ein Recht ansprechen kann. Dem Staate muß derjenige Einfluß auf die kirchlichen Anstalten, der ihn gegen gefährlichen Mißbrauch und verderbliche Richtungen schützt, gesetzlich bewahrt sein, der Kirche jener Einfluß auf die Anstalten des Staates, der geeignet ist, darüber zu beruhigen, daß der Religionsunterricht nicht vernachlässigt, oder gar der Glauben untergraben werde. Namentlich kann die Beurtheilung ob der Unterricht, welcher in der katholischen Religion, oder in den theologischen Wissenschaften erteilt wird, wirklich sei, was er heißt, nur der kirchlichen Autorität zustehen. Der Staat, der überhaupt die Selbstständigkeit der Kirche achten will, muß sie auch in die Lage setzen, dieses Urtheil selbstständig zu fällen.

Er darf daher an den öffentlichen Anstalten Niemanden als Lehrer der katholischen Religion oder der Theologie wirken lassen, der nicht hierzu von der Kirche befugt ist. Nur auf solchen Grundlagen kann in der Angelegenheit des öffentlichen Unterrichts zwischen dem Staate und der Kirche Vertrauen herrschen, und jenes Einvernehmen bestehen, welches nothwendig ist, um den Zweck beider zu fördern. Von diesen Ansichten geleitet, erlaubt sich der in tiefster Ehrfurcht Unterzeichnete zur Beleuchtung der speciellen Anträge und Wünsche der Bischöfe überzugehen.

Die bischöfliche Versammlung hat sich über die Heranbildung der Candidaten des geistlichen Standes in folgender Weise ausgesprochen:

„Nichts berührt die Kirche näher, nichts gehört unlängbarer in den Bereich ihrer Gewalt, als die Heranbildung der Candidaten des geistlichen Standes, hiermit sowohl der Unterricht in der Theologie, als die Einrichtung und Leitung der geistlichen Seminarien. Die versammelten Bischöfe erkennen, daß die Gestalt der Zeitverhältnisse ihnen mehr als jemals die Verbindlichkeit auferlegt, für die wissenschaftliche Lückigkeit der Lehrer und Seelsorger des christlichen Volkes mit dem regsten Eifer Sorge zu tragen, und dabei im engsten Einvernehmen zu handeln; sie erkennen, daß es der katholischen Kirche Nachtheil und Unehre bringen würde, wenn man mit Recht behaupten könnte, daß unter Leitung der Bischöfe die wissenschaftliche Bildung der Geistlichkeit Rückschritte gemacht habe.

Sie gehen ferner in dieser, wie in jeder andern Beziehung von dem Grundsatz aus, daß das Bestehende, in so weit es zweckmäßig und nützlich ist, aufrecht zu halten sei.

Dies sind die leitenden Gedanken, welche bei den nachstehenden Grundzügen des theologischen Unterrichtes festgehalten werden, und das hohe Ministerium dürfte sich überzeugen, daß die Interessen, welche der Staat hinsichtlich der Gestaltung des theologischen Unterrichtes haben kann, dabei in keiner Weise verletzt werden.

In die theologischen Studien sind nur solche Candidaten aufzunehmen, welche das Unter- und Ober-Gymnasium mit hinreichendem Erfolge zurückgelegt haben.

Die Theologie zerfällt in vier Jahrgänge, und wird von wenigstens sechs Professoren vorgetragen.

Allgemein verbindliche Lehrgegenstände sind: Hebräische Sprache, Bibelfunde des alten und neuen Bundes, Kirchengeschichte, Patrologie, Kirchenrecht, Dogmatik, Moral, Pastoral, Katechetik und Unterrichtslehre.

Doch steht es den Bischöfen frei, einzelne Candidaten vom Studium der hebräischen Sprache loszuzählen.

Das Studium der semitischen Sprachen und der höheren Exegese ist für alle erforderlich, welche die theologische Doctorwürde zu erlangen wünschen.

Ueberdies sollen außerordentliche Lehrfächer, wie christliche Archäologie, Apologetik, Geschichte der Offenbarung, Synodologie, Dogmengeschichte, Symbolik nach Maßgabe der Lehrkräfte vorgetragen werden.

Jenen Hören der Theologie, welche Metaphysik und Moralphilosophie vor ihrem Eintritt in das theologische Studium nicht gehört haben, wird Gelegenheit geboten werden, in diesen Wissenschaften durch einen Professor der Theologie Unterricht zu erhalten.

Die Bischöfe behalten sich vor, die Reihenfolge der ordentlichen Lehrvorträge zu bestimmen, sie beabsichtigen aber hierin nach kirchlichen Provinzen eine Gleichförmigkeit herbeizuführen.

Als Professoren der Theologie sollen in der Regel nur Solche angestellt werden, welche ihre Befähigung durch eine schriftliche und mündliche Prüfung ausgewiesen haben; doch kann mit Männern, welche ihre Kenntnisse bereits durch ausgezeichnete wissenschaftliche Leistungen bewährt haben, eine Ausnahme gemacht werden.

Bei Erledigung von Lehrkanzeln ist die Concurs-Prüfung von dem Ordinariate wenigstens in der

ganzen Diöcese auszuschreiben. Bei Lehranstalten, welche mehreren Diöcesen gemeinsam sind, soll die Ausschreibung in allen betreffenden Diöcesen veranlaßt werden.

Bei Universitäten und Lyceen hat die Ausschreibung gleichfalls durch die Ordinariate, doch für den bisherigen Länderbereich und mittelst der öffentlichen Blätter zu geschehen. Die Ordinariate werden die geschehene Erledigung und Ausschreibung der Lehrkanzeln der obersten Landesbehörde bekannt geben.

Zur Bewerbung um theologische Lehrkanzeln an Universitäten und Lyceen sind nur Solche zuzulassen, welche entweder bereits die theologische Doctorwürde erlangt, oder doch aus dem betreffenden Lehrgegenstande sich der strengen Prüfung mit gutem Erfolge unterzogen haben. Die Prüfungsfragen werden von dem Bischofe bestimmt, in dessen Diöcese die Lehrkanzeln erledigt ist.

Die Concurs-Prüfung wird stets bei der Lehranstalt gehalten, an welcher die Lehrkanzeln erledigt ist. Bewerber um Lehrkanzeln an Universitäten und Lyceen bleibt es gestattet, sich an allen Universitäten und Lyceen, und in Kronländern, wo weder eine Universität noch ein Lyceum besteht, auch an Diöcesan-Lehranstalten der Concurs-Prüfung zu unterziehen.

Der Bischof wird über die schriftliche Prüfung das Gutachten der Professoren sowohl der betreffenden als einer andern theologischen Lehranstalt einholen.

Die Beurtheilung der mündlichen Prüfung ist von den Professoren der Lehranstalt, an welcher dieselbe gemacht wurde, und einem Ordinariats-Commissäre vorzunehmen.

Nachdem die Beurtheilung der Prüfungsleistungen ordnungsmäßig vor sich gegangen ist, wählet der Bischof aus den Bewerbern jenen, welcher am meisten Bürgschaften für eine heilbringende Wirksamkeit darbietet, und macht denselben der Staatsgewalt unter Beifügung der Gründe namhaft, auf welchen seine vorzugsweise Würdigkeit beruht. Erhebt diese nicht von ihrem Standpunkte aus wider den Bezeichneten eine Einwendung, oder sind die gemachten Einwendungen behoben, so verleiht ihm der Bischof das Lehramt. Dasselbe ist zu beobachten, wenn der Bischof einen Mann, welcher durch wissenschaftliche Leistungen hervortragt, ohne vorausgegangener Concurs-Prüfung als Professor bezeichnet.

Die Professoren an Universitäten und Lyceen haben, mit Ausnahme von Männern, welche sich durch ausgezeichnete wissenschaftliche Leistungen bewährt haben, ihr Amt wie bisher drei Jahre lang provisorisch zu verwalten. Zur definitiven Anstellung bedürfen sie, den Professor der Pastoral ausgenommen, der theologischen Doctorwürde.

Wenn der Ordensmann der Kirche als Priester und Seelsorger dienen will, so bedarf er derselben wissenschaftlichen Befähigung, wie andere Priester und Seelsorger. Die theologischen Lehranstalten der Klöster unterstehen in gleicher Weise wie die übrigen der Leitung und Beaufsichtigung von Seite der Bischöfe. Auch haben sämmtliche Bestimmungen über die Lehrgegenstände und die Zahl der Jahrgänge und Professoren für dieselben Geltung.

In wiefern die eigenthümlichen Landesverhältnisse fordern, daß hinsichtlich der Ordens-Lehranstalten in Dalmatien und Galizien eine Ausnahme gemacht werde, bleibt dem Ermessen der betreffenden Kirchenprovinzen anheimgestellt.

Die Professoren an Kloster-Lehranstalten werden von dem betreffenden Ordens-Vorsteher dem Bischofe vorgeschlagen, welcher die wissenschaftliche Befähigung der Bezeichneten einer concursartigen Prüfung unterzieht. Wenn der Erfolg ein entsprechender ist, und der Candidat sich auch in den übrigen Beziehungen als zum Lehramte geeignet darstellt, so zeigt er den ihm gemachten Vorschlag der Staatsgewalt an, und theilt die Gründe mit, auf welche seine Gutheißung sich stützt. Wenn von Seite der Staatsgewalt eine Beurlaubung nicht erfolgt, oder die sich ergebenden Schwierigkeiten behoben werden, so verleiht der Bischof dem Candidaten die Ermächtigung zum Lehrvortrage der Theologie.

Der Bischof hat von sämmtlichen Professoren und Lehrern der Theologie die Gewährleistung kirchlicher Gesinnung zu fordern, ihren Wandel, ihre Lehre und gesammte Amtsthätigkeit fortwährend zu überwachen, und wenn sie in einer dieser Beziehungen sich ihres Berufes unwürdig erweisen sollten, die Ermächtigung zum Vortrage der Theologie zurückzunehmen.

Die Bischöfe werden sich über die Fortschritte der Schüler in sämmtlichen Lehrfächern durch genau zu überwachende Prüfungen Gewißheit verschaffen. Ueber den Erfolg der ganz- oder halbjährigen Prüfungen sollen in bisheriger Weise Zeugnisse ausgestellt werden.

Das Latein ist die ordentliche Sprache der theologischen Lehrvorträge. In wie weit die Anwendung der Landessprachen nothwendig sei, um den Seelsorger zu seinem heiligen Berufe zu befähigen, bleibt der Vereinbarung zwischen den Bischöfen derselben Kirchenprovinz überlassen.

In allen Lehranstalten, wo bisher der theologische Doctorgrad ertheilt wurde, behalten sich die Bischöfe das Recht vor, wenigstens die Hälfte der Examinatoren bei strengen Prüfungen aus Professoren oder Doctoren der Theologie zu ernennen, und bei der Promotion von dem zu Graduirenden die Ablegung des tridentinischen Glaubensbekenntnisses zu verlangen.

Es ist heilsam und wünschenswerth, daß zu Wien, als dem Mittelpunkte des Kaiserthums, eine höhere kirchliche Bildungsanstalt unter dem leitenden Einflusse der Bischöfe bestehe.

Uebrigens können die theologischen Lehranstalten nicht blühen, wenn an denselben nicht Professoren wirken, welche mit wahrer Frömmigkeit auch ausgebreitete Kenntnisse und ein reges wissenschaftliches Streben vereinigen. Solche Männer für das theologische Lehramt zu gewinnen, wird aber höchst schwierig bleiben, so lange die Bezüge der theologischen Professoren so gering wie gegenwärtig gestellt, und sogar an manchen Universitäten auf sechs bis achthundert Gulden beschränkt sind.

Auch die Professoren der Diöcesan-Lehranstalten verdienen Berücksichtigung um so mehr, da die Zahl der Schüler und somit der Bereich der Lehrthätigkeit fast ausschließlich von dem Umfange der Diöcese abhängt, und für mehrere der umfangreichsten Diöcesen die Geistlichkeit an Diöcesan-Lehranstalten gebildet wird.

Auch für sie ist es zu wünschen, daß ihre Bezüge eine entsprechende Erhöhung erhalten und ihnen unter denselben Bedingungen, wie den übrigen ein Ruhegehalt angewiesen werde. Die finanziellen Verlegenheiten sind groß, doch hoffentlich sind sie schnell vorübergehend. Die versammelten Bischöfe empfehlen daher diese Angelegenheit dem hohen Ministerium auf's Wärmste zu wohlwollender Würdigung. Da Eifer und Berufstreue für den Seelsorger nicht minder nothwendig sind, als entsprechende Kenntnisse, so ist es eine heilige Pflicht der Bischöfe, nicht nur für den wissenschaftlichen Unterricht der Priesterstands-Candidaten zu sorgen, sondern dieselben auch zu wahrer Frömmigkeit und lebendigem Eifer für das Heil der Seelen heranzubilden. Dies geschieht in den Seminarien, deren Errichtung das Concilium von Trient angeordnet hat, und die von den Bischöfen nach Vorschrift der Kirchengesetze zu leiten sind.

Soll der Zweck erreicht werden, so ist es unerlässlich, daß die Candidaten der Theologie in der Regel ihre ganze Studienzeit im Seminarium zubringen. Die Staatsgewalt hat in dieser Hinsicht die Kirche bisher nicht beirrt, sondern vielmehr durch ihre Verordnungen unterstützt.

Jede Diöcese soll, so weit es die Verhältnisse gestatten, ein eigenes Seminarium haben. Wo die vorchriftsmäßige Einrichtung ihres vollständigen theologischen Studiums nicht wohl möglich ist, dort werde

wenigstens den Theologen des vierten Jahrganges in einem Diöcesan-Seminarium Unterricht ertheilt, und dem Bischöfe dadurch Gelegenheit verschafft, die Candidaten des Priesterstandes, bevor er sie weiht, kennen zu lernen.

Die Errichtung von Knaben-Seminarien gründet sich zunächst auf eine Verordnung des Concilium von Trident, und wird durch die Natur der Sache selbst gerechtfertigt. Der Eintritt in den geistlichen Stand muß aus freier Wahl geschehen, doch kann es nur heilsam wirken, wenn man eine Anzahl von Knaben unter Verhältnissen heranbildet, unter welchen der Gedanke an das Ewige ihnen näher gelegt und die Versuchung zu den mannichfachen Verirrungen, denen das jugendliche Alter vorzüglich in unsern Tagen ausgesetzt ist, möglichst ferne gehalten wird. Widmen sie sich nicht dem geistlichen Stande, so wird die höhere Richtung, zu welcher sie angeleitet wurden, auch in andern Lebensverhältnissen sich für Alle, mit welchen ihr Beruf sie in Berührung setzt, segensreich erweisen.

Uebrigens bedienen die Bischöfe, wenn sie nach Möglichkeit Knaben-Seminarien errichten, sich nur einer Freiheit, welche durch §. 4 der Grundrechte jedem Staatsbürger zugesichert ist.

Der Bischof ist durch das Kirchengesetz verpflichtet, Niemanden das Subdiaconat zu ertheilen, welcher sich nicht auszuweisen vermag, daß ihm ein hinreichender Unterhalt zugesichert ist. Die genauere Bestimmung der Summe, welche für den Tischtitel erforderlich ist, hängt von den Verhältnissen der verschiedenen Länder ab, und wird daher den Provinzial-Concilien zu überlassen sein. Das Urtheil über die Befähigung zum Empfange der heiligen Weihen müssen die Bischöfe ausschließlich für sich in Anspruch nehmen. Der Gedanke an eine den Geistlichen vorzuschreibende Staatsprüfung ist wohl schon aufgegeben, und man könnte in keinem Falle darauf eingehen, eine solche als die Bedingung gelten zu lassen, von welcher die Befähigung zu einer geistlichen Weihe oder zu einem geistlichen Amte abhinge. Den Vortheil, welchen zweckmäßige Prüfungen gewähren, verkennen die Bischöfe nicht, sie machen es sich vielmehr zum Gesetze, die wissenschaftliche Tüchtigkeit der Candidaten des geistlichen Standes durch regelmäßige, sorgfältige Prüfungen zu erforschen."

Der treugehorsamste Minister des Cultus und Unterrichts glaubt hierüber Folgendes bemerken zu müssen:

Was die geistlichen Seminarien betrifft, so haben die versammelten Bischöfe selbst anerkannt, daß die Staatsgewalt in dieser Hinsicht die Kirche bisher nicht beirrt, sondern vielmehr durch ihre Verordnungen unterstützt habe; um so mehr versteht es sich, daß auch in Zukunft kein Bischof gehindert sein werde, das geistliche Seminarium nach Vorschrift der Kirchengesetze zu leiten. Eben so kann die Errichtung von Knaben-Seminarien inner den Gränzen, welche §. 3 der allgemeinen Bürgerrechte vorzeichnet, keinem Anstand unterliegen. Was aber den Unterricht in den theologischen Wissenschaften anbelangt, so glaubt der treugehorsamste Ministerrath, bei Beurtheilung der bischöflichen Eingabe, zwischen den theologischen Diöcesan- und Kloster-Lehranstalten, und dem theologischen Facultätsstudium unterscheiden zu müssen. Die Diöcesan- und Kloster-Lehranstalten sind dazu bestimmt, die Candidaten des geistlichen Standes für ihren kirchlichen Beruf heranzubilden. Diese Anstalten sind ihrer inneren Natur nach kirchliche Anstalten und es kann nicht in der Absicht der Regierung Eurer Majestät liegen, hinsichtlich der Einrichtung derselben für den Staat eine, die Bestimmungen des §. 3 des Allerhöchsten Patentes vom 4. März 1849 überschreitende, gesetzgebende Macht in Anspruch zu nehmen. Doch einer Seits ist es, wie die Bischöfe selbst anerkennen, nicht wünschenswerth, daß dem einzelnen Bischöfe in dieser Beziehung ein unbeschränkter Spielraum gelassen werde, anderer Seits kann nicht die Berechtigung der Staatsgewalt in Abrede gestellt werden, in die diesfälligen Anordnungen der geistlichen Gewalt, bevor sie in Wirksamkeit treten, Einsicht zu nehmen, und sowohl ihre Wünsche ausdrücken, als auch auf etwa obwaltende Schwierigkeiten aufmerksam zu machen. Abgesehen davon, daß der Religionsfond, aus welchem die Diöcesan-Lehranstalten erhalten werden, bedeutender Zuschüsse aus dem Staatsvermögen bedarf, muß es auch von der Einrichtung der Diöcesan- und Kloster-Lehranstalten abhängen, in wie fern der an denselben erhaltene Unterricht für die Befähigung zu Lehramttern an Universitäten und Staatsgymnasien in Anschlag gebracht werden könne. Auch erfüllt der Geistliche durch Führung der Pfarrbücher, durch Leitung der Volksschule und des Armenwesens, und durch Aufnahme der Einwilligung in die Ehe, in so weit dieselbe zur Begründung bürgerlicher Rechte nothwendig ist, solche Amtspflichten, bei welchen er zugleich als Beauftragter des Staates erscheint, und welche ihm nicht anvertraut werden könnten, wenn nicht der Staatsgewalt Bürgschaft geleistet würde, für eine hinreichende Bildung sichernde Einrichtung der theologischen Anstalten. Die vorliegenden Beschlüsse der bischöflichen Versammlung sind in dieser Beziehung ganz entsprechend; sie bieten für die Bildung der Seelsorger mehr Sicherheit, als die bisherigen Vorschriften der Regierung, und es könnten daher diese ohne Weiteres aufgehoben werden, wenn nur die von der bischöflichen Versammlung gefaßten Beschlüsse als eine sie und ihre Nachfolger bindende Richtschnur angesehen werden könnten. Anders als mit den Diöcesan-Anstalten verhält es sich mit den Universitäten. Die Universitäten sind zur Erhaltung und Fortbildung der Wissenschaft bestimmt. Die theologischen Facultäten bilden einen Bestandtheil derselben, welcher durch ihre geschichtliche Entwicklung tief eingefügt ist, in ihr ganzes Gebäude. Sollen sie aus dieser Verbindung nicht gewaltsam herausgerissen werden, so müssen auch an ihnen die allgemeinen akademischen Gesetze Geltung haben; sie müssen in wissenschaftlicher Beziehung die Organisation der übrigen Facultäten theilen, und die Lehrer an denselben in gleicher Weise bestellt werden. Unstreitig sollen aber die Universitäten auch aufs Leben einwirken, und deshalb ist bei Einrichtung der verschiedenen Facultäten auf die praktischen Zwecke, welchen die Wissenschaft dienen soll, sorgsam Rücksicht zu nehmen. Hierzu kommt die Eigenthümlichkeit der theologischen Wissenschaft, welche ein durch höhere Vermittlung Gegebenes zu ihrem Gegenstande hat.

Die theologischen Facultäten würden daher nicht sein, was sie sein sollen, wenn sie außer Beziehung zur kirchlichen Autorität gesetzt würden. Aber diese Beziehung ist schon gewahrt, wenn der Facultäts-Professor die kirchliche Ermächtigung zum Vortrage der Theologie von dem Bischöfe der Diöcese zu erhalten hat, und deshalb auch an Universitäten für die theologische Wissenschaft weder ein Professor angestellt, noch ein Privatdocent zugelassen werden kann, ohne daß die Regierung sich darüber mit dem Bischöfe verständigt hat. Die theologischen Facultäten sind ihrer Stellung und Aufgabe nach für keine einzelne Diöcese bestimmt; wenn sie sich Vertrauen zu erwerben wissen, so werden Geistliche aus einem weiten Länderbereiche sich dort vereinigen, um jene höhere Bildung zu erlangen, welcher die Vertreter der religiösen Interessen so sehr bedürfen.

Auch deswegen kann dem Bischöfe, in dessen Diöcese die Universität liegt, die Anstellung der Professoren an der theologischen Facultät nicht überlassen werden. Dagegen kann der Bischof, an dessen Seite sich eine katholische Facultät befindet, auf die Heranbildung seiner Geistlichkeit denselben Einfluß ansprechen, welchen andere Bischöfe zu üben haben. Dazu würde jedoch nur erforderlich sein, daß jeder Bischof, an dessen Seite sich eine theologische Facultät befindet, eine Diöcesan-Lehranstalt habe, über welche er inner den Grenzen, welche durch die Beschlüsse der bischöflichen Versammlung,

oder durch die bestehenden Einrichtungen gezogen werden, frei verfügen könne. Zu wünschen bliebe nur, daß seine Wahl stets auf Männer falle, welche die nöthigen Eigenschaften besitzen, um von der Regierung zugleich als Professoren an der theologischen Facultät angestellt zu werden.

So wie die theologische Facultät jede Wirklichkeit belehren, und zu einem ganz bedeutungslosen Institute herabzinken müßte, wenn das Lehramt an derselben nicht von der kirchlichen Autorität anerkannt würde, so ist auch die Bedeutung der theologischen Doctorwürde von ihrer kirchlichen Stellung abhängig. Um ihr diese zu wahren, erscheint es ganz zweckmäßig, daß der Bischof die Hälfte der Prüfungs-Commissäre ernenne, und daß Jeder, welcher zu dieser akademischen Würde befördert wird, das römisch-katholische Glaubensbekenntniß abzugeben habe. Was den von den Bischöfen ausgedrückten Wunsch anbelangt, daß zu Wien eine höhere kirchliche Bildungs-Anstalt unter dem leitenden Einflusse der Bischöfe bestehe, so läßt sich nicht verkennen, daß eine solche Anstalt bei einer zweckmäßigen Einrichtung sehr heilsam zu wirken vermöge. Da sie ist unter den gegenwärtigen Verhältnissen ein dringenderes Bedürfnis als bisher, weil die der Kirche gewährte größere Freiheit das Bedürfnis nach Priestern steigert, welche für die besondern Berufswege gründlich vorgebildet und zugleich mit allgemeiner wissenschaftlicher Bildung ausgerüstet sind. Die Leitung einer solchen Anstalt, als einer rein kirchlichen, gebührt den Bischöfen. Ueber deren Einrichtung dürften von ihnen nähere Vorschläge zu erwarten sein; geruhen Euer Majestät zu genehmigen, daß sie zu deren Erhaltung aufgefördert werden.

Die bischöfliche Eingabe spricht sich ferner über den Religionsunterricht in Mittelschulen in folgender Weise aus:

„Wo und wie immer den Katholiken Religionsunterricht erteilt wird, dort gehört die Leitung und Ueberwachung desselben in den Bereich der geistlichen Gewalt; durch § 4 ist die Besorgung des katholischen Religions-Unterrichtes an den Volksschulen der katholischen Kirche bereits zuerkannt, doch auf die höheren und mittleren Schulen muß derselbe Grundsatz angewendet werden. Die Bischöfe können nicht zugeben, daß dort die katholische Glaubens- und Sittenlehre von Priestern vorgetragen werde, welche sich ihres Vertrauens nicht in jeder Beziehung erfreuen. Daher werde ihnen überlassen, die Religionslehre an den genannten Lehranstalten unter denselben Bedingungen zu besorgen, unter welchen für den Bischof die Besetzung der Professoren der Theologie beauftragt wurde. Der Staat wird dabei keines ihm wirklich schadenbringenden Einflusses entbehren. Man geht von der Voraussetzung aus, daß im Ober-, wie im Unter-Gymnasium und in sämtlich mittleren Schulen der Religionsunterricht stets unter die ordentlichen und allgemein verbindlichen Lehrgegenstände gehören werde. Doch ist es sehr zu wünschen, daß auch an den philosophischen Facultäten die katholische Religion, zu welcher sich fast die ganze Bevölkerung bekennt, in entsprechender Weise vertreten, und die Befähigung der dort zu ertreichenden oder vielmehr beizubehaltenden Lehranzahl der Religion dem Bischof in der oben angezeigten Weise überlassen werde.“

Es ist von besonderer Wichtigkeit, daß das Wort Gottes der studierenden Jugend mit aller Kraft der Beerdiamkeit verkündet und dadurch den verderblichen Einflüssen, welchen die jugendliche Unerfahrenheit mehr als jemals ausgeht, wirksam begegnet werde. Es möge daher an allen Universitätsstädten, wo es bisher nicht der Fall war, ein Prediger angestellt, und die Auswahl dem Bischof überlassen werden. Dem Bischof wird es Pflicht sein, dies Amt einem Priester zu übertragen, welcher mit gründlichen Kenntnissen ausgezeichnete Redneregaben verbindet, und in jeder Hinsicht befähigt ist, auf Jünglinge einen wohlthätigen und nachhaltigen Einfluß zu üben.“

Der treugehorsamst Unterzeichnete muß hierüber Nachstehendes bemerken:

Die Gymnasien und andere Mittelschulen haben die Aufgabe, nicht nur zu lehren, sondern auch zu erziehen. Den Maßregeln zu ihrer Reorganisation, deren Durchführung im Zuge ist, liegt wesentlich der Gedanke zu Grunde, diesen Schulen diejenige Einrichtung zu geben, welche ihnen einen erziehenden Einfluß durch inniges Zusammenwirken der Lehrer möglich macht. Die Zukunft Oesterreichs wird in nicht geringem Maße davon abhängen, in welcher Weise dieser Einfluß geübt wird. Soll verhütet werden, daß die gesteigerte Bildung in Oesterreich zerfallend statt veredelnd und kräftigend auf seine Bevölkerung wirke, so kann es nur dadurch geschehen, daß diese Bildung mit der Religion in inniger Verbindung erhalten und von ihr durchdrungen werde. Der Religionsunterricht darf zumal an diesen Schulen nicht vereinzelt stehen, sondern, so wie bei jeder sorgfältigen häuslichen Erziehung darnach gestrebt wird, daß er mit dem Unterrichte in den Wissenschaften Hand in Hand gehe, so daß der Unterricht in jedem Gegenstande Bestandtheil eines geordneten Gesamtplanes sei und alle Bestandtheile sich gegenseitig unterstützen und ergänzen, so sollen auch die öffentlichen Schulen diesem Ziele nachstreben.

Damit der Religionsunterricht an den Gymnasien eine dem entsprechende Stellung einnehme, muß er anders eingerichtet werden als bisher. Er wurde bisher von einem Katecheten durch alle sechs Classen des Gymnasiums erteilt. Nach der Einrichtung, welche die Gymnasien jetzt erhalten, nachdem die beiden Jahrgänge des bisherigen philosophischen Studiums denselben einverleibt wurden, werden sie aus acht Classen bestehen. Es ist unmöglich, daß ein Lehrer den Religionsunterricht in allen acht Classen erteile, und es erscheint daher nothwendig, daß an jedem vollständigen Gymnasium zwei Religionslehrer angestellt werden, einer nämlich für das Unter-Gymnasium und ein anderer für die vier oberen Classen. Bei einer solchen Einrichtung werden aber die Religionslehrer weniger als die bisherigen Katecheten, und weniger als alle anderen Gymnasiallehrer beschäftigt, und es wird sehr wohl möglich sein, daß sie sich noch an einem anderen Gegenstande des Unterrichts betheiligen, wenn sie dazu die wissenschaftliche Befähigung besitzen. Davon aber, daß sie diese besitzen, hängt vorzugsweise die gedeihliche Wirkung des von ihnen erteilten Religionsunterrichtes ab. Nach dem mit Allerhöchster Entschlieung vom 23 August 1849 genehmigten provisorischen Gesetze über die Prüfung der Gymnasial-Lehramts-Candidaten wird von jedem Gymnasiallehrer verlangt, daß er sich nicht nur über seine allgemeine Bildung ausweise, sondern daß er auch fähig sei, mindestens in zwei verwandten Gegenständen Unterricht zu erteilen. Der Religionslehrer würde also in Einfluß und Ansehen hinter den übrigen Lehrern zurückstehen, wenn er nicht derselben Anforderung zu entsprechen vermöchte. Lieberdies wird aber die Betheiligung des Religionslehrers noch an einem anderen Gegenstande des Unterrichts wesentlich dazu beitragen, den Religionsunterricht selbst lebendiger und in den Gesamtunterricht harmonischer eingreifend zu machen.

Diese Gründe lassen es wünschenswerth erscheinen, daß künftig als wirkliche Religionslehrer nur Männer angestellt werden, welche in wissenschaftlicher Beziehung auf gleiche Höhe mit den übrigen Lehrern stehen, und daß sie wo möglich sich auch an dem anderweitigen Unterricht betheiligen. In dieser Art befähigte Religionslehrer werden jedoch in größerer Anzahl erst dann vorhanden sein, wenn der Kirche Zeit gelassen worden ist, die befähigten Glieder ihres Clerus dazu vorzubereiten. In dem gegenwärtigen Augenblicke, zumal wo die, der katholischen Kirche wieder gewährte, selbstständige Thätigkeit in den verschiedenen Zweigen ihrer innern Verwaltung die besten Kräfte des Clerus vielfach in Anspruch nehmen wird, können Religionslehrer für die Gymnasien nach obigem Maßstabe nur ausnahmsweise gefunden werden. Wo es an ihnen fehlt, wird man sich mit Supplenten begnügen müssen, welche nur den bisher an den Katecheten gestellten Anforderungen entsprechen. Die Beurtheilung der Befähigung und die Ertheilung des Befugnisses, an einer öffentlichen Anstalt Unterricht in der katholischen Religion überhaupt und insbesondere Unterricht einer bestimmten Art zu erteilen, liegt in dem Bereiche der kirchlichen Autorität. Auch läßt es sich nicht verkennen, wie sehr es für den Zweck des Religionsunterrichtes wünschenswerth sei, daß der, welcher ihn erteilt, das volle Vertrauen seines Bischofs besitze. Wenn jedoch der Religionslehrer zugleich auch ein anderes Lehramt

verwalten, wenn er ferner auf die Leitung des Gymnasiums gleich den übrigen Lehrern Einfluß nehmen soll, so muß nothwendig seine Anstellung demjenigen vorbehalten bleiben, welcher die Anstalt erhält und die Verantwortung für ihren Zustand trägt; sie muß daher, wo es sich um Staatsanstalten handelt, der Regierung zustehen.

Kann demnach dem Begehren der Bischöfe hinsichtlich der Anstellung der Religionslehrer an den Mittelschulen nicht ganz entsprochen werden, so erscheint es gleichwohl zweckmäßig, ihnen einen größern Einfluß als bisher darauf einzuräumen. Nach der bisherigen Einrichtung wurde von den Ordinariaten ein Vorschlag zur Besetzung erledigter Stellen erstattet, worauf die Ernennung von der Regierung erfolgte. Die Erfahrung hat erwiesen, daß auf diese Weise mitunter Männer als Religionslehrer vorgeschlagen und angestellt wurden, die sich dieses Amtes in jeder Beziehung unwürdig gezeigt haben. Gesah auch die Anstellung im Einvernehmen mit dem Ordinarate, so wurde doch die Regierung als dafür verantwortlich angesehen, und in diesem Falle dürfte zum Theil der Grund liegen, weshalb von Seite der Ordinate bei Beurtheilung der ihnen genannten Candidaten nicht mit der Strenge und Sorgfalt vorgegangen wurde, welche nöthig gewesen wäre, um unwürdige Männer fern zu halten. Diese Sorgfalt darf von den Bischöfen erwartet werden, wenn ihnen ein solcher Einfluß auf die Wahl eingeräumt wird, daß auch die volle Verantwortung dafür auf ihnen ruht.

Demnach stellt sich folgender Vorgang als allen Rücksichten entsprechend dar, und der treueherrschaftliche Ministerrath erlaubt sich die Allerhöchste Genehmigung desselben zu erbitten.

Wenn an einem Staats-Gymnasium die Stelle eines katholischen Religionslehrers erledigt ist, so wird nach den von den versammelten Bischöfen angetragenen Bestimmungen eine Concurs-Prüfung abgehalten, und der geeignetste Bewerber der Landes-Schulbehörde von dem Bischofe unter Mittheilung der Prüfungsarbeiten namhaft gemacht. Wosern wider den Bezeichneten kein politisches Bedenken obwaltet, soll von dem Vorschlage des Bischofs in der Regel nicht abgewichen werden; nur für ausnahmsweise Verhält. nisse muß es der Regierung vorbehalten bleiben, einen andern von dem Bischofe als befähigt anerkannten Priester zu wählen. Die Eigenschaft, in welcher der von dem Bischofe Bezeichnete angestellt wird, hängt aber von seiner sonstigen Befähigung ab. Hat er sich der für die Gymnasial-Lehranten-Candidaten vorgeschriebenen Prüfung mit gutem Erfolge unterzogen, so wird er als wirklicher Gymnasiallehrer, hat er sich dieser Prüfung gar nicht, oder mit unentsprechendem Erfolge unterzogen, so wird er nur als Supplent angestellt. In den übrigen mittlern Schulen, welche Staatsanstalten sind, wird die Anstellung der Religionslehrer in derselben Weise vor sich gehen.

Was den Wunsch anbelangt, daß auch an den philosophischen Facultäten die katholische Religion in entsprechender Weise vertreten, und die Befehung der dort zu errichtenden oder vielmehr beizubehaltenden Lehrkanzel dem Bischofe überlassen werde, so erkennt der treueherrschaftliche Ministerrath, daß in einer Zeit, wo die Wissenschaften nicht selten eine der Religion feindliche Richtung genommen haben, die katholische Kirche sich insbesondere berufen fühlen muß, auch an der philosophischen Facultät die Sache des Christenthums zu führen, seinen Zusammenhang mit den wahrhaften Errungenschaften der Wissenschaft nachzuweisen, und Mißverständnisse und Vorurtheile zu berichtigen. Durch die freiere Einrichtung des Universitätsstudiums, welche das Lehramt nicht zum ausschließlichen Rechte angestellter Professoren macht, ist zwar ohnehin der Kirche die Gelegenheit geboten, ihre Anschauungsweise wissenschaftlich geltend zu machen. Indessen steht allerdings zu befürchten, daß es der Kirche nicht leicht möglich sein werde, diese Gelegenheit zu benützen, wenn nicht für den Unterhalt des dazu auserlesenen Mannes gesorgt würde. Anderer Seits kann der Zweck, welchen die versammelten Bischöfe im Auge haben, nur dann erreicht werden, wenn ein Mann von ganz ausgezeichneter Befähigung für diese Lehrvorträge verfügbar ist. So sehr es daher auch für wünschenswerth erkannt wird, solche Männer an den philosophischen Facultäten wirken zu sehen, so erscheint es doch nicht dem Zwecke entsprechend, dafür eigene Lehrkanzeln förmlich zu instituirn; doch wenn der Bischof einen Mann bezeichnet, welcher vorzüglich befähigt ist, die christliche Ueberzeugung auf dem Gebiete der Wissenschaft zu vertreten, so wird es sehr entsprechend sein, denselben, wenn wider ihn kein anderweitiges Bedenken obwaltet, einen angemessenen Gehalt anzuweisen. Geruhen Euerer Majestät den treueherrschaftlichen Minister des Cultus und Unterrichts hiezu zu ermächtigen.

Da die Universitäten der Länder, um deren kirchliche Verhältnisse es sich handelt, sämmtlich für eine weit überwiegend katholische Bevölkerung bestimmt sind, so ist es ganz angemessen, daß an denselben, in so weit dies nicht schon der Fall ist, ein Prediger angestellt werde. Die Wahl desselben wäre dem Bischofe zu überlassen, in der Voraussetzung, daß sie stets in jenem Geiste geschehen werde, welcher in der Eingabe der bischöflichen Versammlung angedeutet ist.

Ueber die Volksschulen spricht sich die vorliegende Eingabe der bischöflichen Versammlung in nachstehender Weise aus:

„Die katholische Kirche nimmt hinsichtlich der katholischen Jugend nicht den Religionsunterricht allein in Anspruch. Sie ist von Gott eingesetzt, um das Menschengeschlecht für das ewige Leben zu erziehen, und hat deswegen das Recht und den Beruf, für die Heranbildung der Jugend zu Glauben und Liebe, Sorge zu tragen. Die Volksschulen verdanken der katholischen Kirche ihren Ursprung, und werden sie von ihr losgerissen, so müssen sie der Propaganda des Unsinns anheimfallen. Die Zukunft der europäischen Gesellschaft ist mir einem Schleier bedeckt, den nur das Auge des Allsehenden zu durchdringen vermag. Dies eine ist gewiß: Wird die europäische Gesellschaft vom Zerfalle gerettet, so wird sie durch die Religion gerettet. Es ist daher für die Kirche, aber nicht minder für den Staat notwendig, daß der katholischen Kirche ihr leitender Einfluß auf die katholischen Volksschulen gemahret bleibe. Unstreitig hat auch der Staat ein Recht wie ein Interesse, leitend und überwachend auf die Volksschulen einzuwirken. In der bisherigen Schulverfassung finden die Ansprüche, welche Kirche und Staat auf die Schule machen, billige Berücksichtigung. Die Bestimmungen, welche die bisherige Schulverfassung hinsichtlich der Leitung und Beaufsichtigung der Volksschulen aufstellt, mögen daher auch fernerhin beibehalten werden.“

„Da die Leitung des katholischen Religionsunterrichtes der katholischen Kirche zusteht, so kann die Bestimmung der Religions-Lehrbücher nur von der geistlichen Gewalt ausgehen. Damit die übrigen in den Volksschulen anzuwendenden Lehrbücher sowohl den allgemeinen Erfordernissen einer wahren christlichen Volksbildung, als auch den besonderen Bedürfnissen des Landes und Volkes entsprechen, möge den Bischöfen jedes Kronlandes gestattet sein, diese Lehrbücher im Einverständnisse mit der Landesverwaltung festzusetzen.“

„Bei den gegenwärtigen Bildungs-Verhältnissen der europäischen Völker sind die Schullehrer ohne Zweifel unentbehrlich, und wenn sie ihrem Berufe entsprechen, vermögen sie eine segensreiche Wirksamkeit zu üben; doch darf man sich die dabei obwaltenden Schwierigkeiten nicht verhehlen. Einer Seits sollen sie in dem, was sie zu lehren haben, gründlich unterrichtet sein; anderer Seits genügt für ihre Stellung eine geringe Summe von Kenntnissen, und einem Manne von wissenschaftlicher, umfassender Bildung müßte es als eine unerträgliche Last erscheinen, alle seine Kräfte der Aufgabe zu widmen, der Dorfjugend die ersten und einfachsten Anfangsgründe des menschlichen Wissens einzuprägen. Vor allem aber bedarf der Schullehrer jener Frömmigkeit und Reinheit der Gesinnung, welche nur aus dem heiligen Borne der Religion geschöpft werden kann. Unstreitig genügt eine Bildungszeit von nur 6 Monaten für den Schullehrer nicht, oder doch nur dann, wenn bereits eine längere praktische Einübung unter zweckmäßiger Anleitung vorausgegangen ist. Doch wosern die Staatsgewalt Schullehrer-Seminarien gründen sollte, so müßte

die Einklebung derselben mit weiser Umsicht erwogen, es müßte sowohl das Zuviel als das Zuwenig sorgfältig vermieden, und auf die sittliche und religiöse Bildung derselben ein besonderes Augenmerk gerichtet werden. Menschen, welche mit oberflächlicher, flüchtiger Bildung große Ansprüche und eine schwankende sittliche Haltung verbinden, sind überall gefährlich, doch vor Allem in der Landschule, von wo aus sie in ganzen Gemeinden einen verderblichen Saamen austreuen könnten.“

„Die thätige, schlaue, klannäßig wirkende Partei des Umsturzes könnte sich keine besseren Werkzeuge wünschen. Die Schullehrer-Seminarien sollen daher mit der Kirche in innigen Zusammenhang gesetzt, sie sollen als Diöcesan-Anstalten betrachtet, und von dem Bischöfe im Einverständnisse mit der Staatsgewalt geleitet und beaufsichtigt werden.“

„Die katholische Volksschule kann nicht gedeihen, wenn der Schullehrer nicht mit den, seiner Stellung entsprechenden Kenntnissen wahrhaft katholische Gesinnung vereint. Die Bischöfe können nicht zugeben, daß ein Mann, dessen Glauben und Sittlichkeit nicht tadellos dasteht, als Lehrer der katholischen Jugend wies, und müssen daher einen entscheidenden Einfluß auf die Anstellung von Schullehrern in Anspruch nehmen. Man muß dabei in Erinnerung bringen, daß ein großer Theil des Schulfonds aus dem eingelegenen Vermögen der Bruderschaften, somit aus geistlichen Gütern besteht, und man für jene Schullehrer, welche aus dem Kirchenvermögen befoldet werden, wohl auch das Ernennungsrecht ansprechen könnte.“

„Viele Schullehrer und Gehilfen leben in einer Dürftigkeit, welcher man das innigste Mitgefühl nicht verjagen kann. Bei ihrer großen Zahl stellen einer durchgreifenden Verbesserung ihrer Lage sich Hindernisse entgegen, deren Gewicht kein ruhig Erwägender verkennen kann. Indessen muß man den lebhaften Wunsch aussprechen, daß denselben nach Möglichkeit ein hinreichendes Einkommen ausgemittelt, daß ihnen für den Fall der Dienstunfähigkeit der Unterhalt gesichert, und auch für ihre Witwen in entsprechender Weise gesorgt werde.“

Der ehrfurchtsvoll Unterzeichnete erlaubt sich hierüber Folgendes zu bemerken:

Das Recht, den Religionsunterricht in den katholischen Volksschulen zu besorgen, ist der Kirche durch § 4 des Allerhöchsten Patentens vom 4. März 1849 verblieben worden. Die Ausrückung Eurer Majestät ist von der Uebersetzung durchgedungen, daß auch auf der untersten Bildungsstufe dieser Unterricht, um wirksam zu sein, und den dafelbst ganz besonders vorherrschenden Zweck der Erziehung zu fördern, nicht von dem andern weltlichen Unterrichte getrennt, und daß die Volksschule am allerwenigsten zum Kampffelde entgegengesetzter Lebensanschauungen werden darf.

Dagegen erkennen die Bischöfe das Recht und das Interesse an, welches auch der Staat hat, leitend und überwachend auf die Volksschulen einzuwirken, und sie finden die Ansprüche, welche Kirche und Staat auf die Schulen machen, in der bisherigen Schulverfassung billig berücksichtigt.

Der treugeverfante Minister des Cultus und Unterrichtes fühlt die Verpflichtung, auch auf dem Gebiete der Volksschule Verbesserungen anzukstreben. Der innige Zusammenhang, in welchem das Volksschulwesen mit anderen Institutionen steht, die in gänzlicher Umgestaltung begriffen sind, macht es jedoch notwendig, die Regelung dieses Gegenstandes, in so fern es sich um theilweise Aenderung der bestehenden Einrichtungen handelt, noch der weiteren Verhandlung vorzubehalten, wobei übrigens keineswegs beabsichtigt wird, den Einfluß, welchen die Kirche auf die Volksschule bisher geübt hat, zu beschränken oder zu beeinträchtigen.

Im Hinblick auf in diesem Allerunterthänigsten Vortrage entwickelten Ansichten, erlaubt sich der ehrfurchtsvoll Unterzeichnete im Namen des treugeverfanten Ministerrathes zur Regelung der Beziehungen der katholischen Kirche zum öffentlichen Unterrichte den beiliegenden Resolutions-Entwurf der Allerhöchsten Genehmigung zu unterbreiten, und den weiteren ehrerbietigen Antrag zu stellen: Eure Majestät geruhen zu genehmigen:

1. Daß die vollständige Durchführung der Beschlüsse, welche von der Versammlung der Bischöfe über die Einrichtung der theologischen Diöcesan- und Kloster-Lehranstalten gefaßt worden sind, kein Hinderniß finde, unter dem Vorbehalte, daß keine Abänderung ohne mit der Regierung gepflogene Rücksprache werde verfügt werden, daß aber dort, wo und in so weit als Diöcesan- und Kloster-Lehranstalten diese Beschlüsse nicht zur Richtschnur nehmen, nach den bisherigen Bestimmungen vorgegangen werde;
2. daß da, wo in Zukunft eine theologische Facultät bestehen wird, zugleich eine Diöcesan-Anstalt eingerichtet werde;
3. daß bei der Anstellung von Religionslehrern an Staats-Gymnasien und anderen Mittelschulen in der oben beantragten Weise vorgegangen werde;
4. daß an den Universitäten, an welchen es noch nicht der Fall ist, Prediger angestellt werden, und deren Auswahl den Bischöfen überlassen werde.

Geruhen Eure Majestät endlich:

5. zu genehmigen, daß es von den an den philosophischen Facultäten systemisirt getwesenen Professuren der Religionswissenschaft abkomme, dagegen den treugeverfanten Minister des Cultus und Unterrichtes zu ermächtigen, Männern, welche dergestalt befähigt sind, die christliche Uebersetzung an den philosophischen Facultäten wissenschaftlich zu vertreten, wenn solche von den Bischöfen bezeichnet werden, einen angemessenen Gehalt anzuwelsen.

Wien, am 13. April 1850.

Ueber diesen Vorschlag erließ folgende Allerhöchste Entschliessung:

In Erwägung der §§. 2, 3 und 4 des Patentens vom 4. März 1849 genehmige Ich, nach dem Antrage Meines Ministers des Cultus und Unterrichtes und über Einrathen Meines Ministerrathes, für alle Kronländer, für welche jenes Patent erlassen ist, nachstehende Bestimmungen:

- §. 1. Niemand kann an niederen oder höheren öffentlichen Lehranstalten als katholischer Religionslehrer oder Professor der Theologie wirken, ohne die Ermächtigung hiezu von dem Bischöfe erhalten zu haben, in dessen Diöcese sich die Anstalt befindet.
- §. 2. Der Bischof kann die Jemanden ertheilte Ermächtigung jederzeit wieder entziehen; die bloße Entziehung dieser Ermächtigung macht jedoch einen von der Regierung angestellten Lehrer nicht des ihm gesetzlich zustehenden Anspruches auf einen Ruhegehalt verlustig.
- §. 3. Es bleibt Sache der Regierung, Männer, welche vom Bischöfe die Ermächtigung zum Vortrage der Theologie erhalten haben, an den theologischen Facultäten zu Professoren zu ernennen, oder als Privatdozenten zuzulassen, und diese verwalten ihr Amt nach Maßgabe der akademischen Gelese.
- §. 4. Dem Bischöfe steht es frei, seinen Klunnen die Vorträge, welche sie an der Universität zu besuchen haben und deren Reihenfolge vorzuzichnen, und sie darüber in seinem Seminarium prüfen zu lassen.
- §. 5. Zu den strengen Prüfungen der Candidaten der theologischen Doctorwürde ernannt der Bischof die Hälfte der Prüfungskommission aus Männern, welche selbst den theologischen Doctorgrad erlangt haben.
- §. 6. Es kann Niemand die theologische Doctorwürde erlangen, der nicht vor dem Bischöfe, oder dem von ihm dazu Beauftragten, das Tridentinische Glaubensbekenntnis abgelegt hat.

Mit der Durchführung dieser Bestimmungen ist mein Minister des Cultus und Unterrichtes beauftragt.

Ich genehmige ferner die übrigen in diesem Vortrage gestellten Anträge und ermächtige meinen Minister des Cultus und Unterrichtes zu deren Durchführung.

Wien am 23. April 1850.

Franz Joseph.

(Translation.)

The most humble Report of Count Thun, Minister of Public Worship and Education, on matters affecting the relations existing between the Catholic Church and Public Instruction, and the Emperor's Resolutions thereon.

Most Gracious Sovereign !

THE bishops who were assembled in Vienna in the course of last summer devoted their due and most careful attention to the question of the Christian Catholic education, and have submitted their views and wishes in regard thereof in the subjoined memorial, dated 15th of June, 1849.

They base the same upon the fundamental principle, that those moral convictions which must be actively kept alive in the minds of all classes of the people,—if, indeed, the Government of the State is not also to be brought to the verge of dissolution,—can only find a lasting guarantee in religion; whilst every attempt on the part of the Executive to make independent enactments in matters of religion, would either give rise to disputes and confusion, or vehemently shake the religious, and with them also these moral convictions. In admitting that the direction of public instruction belongs to the most important duties which the State has to impose upon itself in its present position of development, they, too, lay claim to the right of directing the education of its Catholic members, in so far as it involves those religious and moral convictions according to the laws and in the spirit of the Catholic Church.

The knowledge that a man acquires is a power that he may make subservient either to good or to evil.

The use that he will make of it principally depends upon his moral convictions, and the indispensable foundation of the moral development of mankind certainly is religion! And just for this reason, her quickening influence upon education is undeniably a necessity founded in human nature. This influence, however, can but then become active when religious education is brought into intimate connexion with general education. Only he who is ignorant of the conditions inseparable from the intellectual development of mankind, or of real mental cultivation, can believe in the possibility of treating religious education as something separate and exclusive, without abandoning its operation upon the youthful mind to mere chance.

Your Majesty's most faithful and humble Minister of Public Worship and Instruction can, therefore, but approve when the bishops are thus striving as little for a separateness of religious instruction as for a separation of Church and State in a general sense.

The Catholic Church can never and nowhere renounce her claim upon the exercise of a decisive influence on religious instruction, and Section 2 of the Imperial Charter of the 4th of March, 1849, doubtless guarantees to the high functionaries of ecclesiastical authority the right of independently enforcing the due influence of the Church.

The Church will always require to have her own separate educational establishments; her right to which, conformably to section 3 of the Imperial Charter, can in no wise be questioned, nor will the bishops have to brook any overruling interference on the part of the State, in the direction of these ecclesiastical establishments.

On the other hand also, Government can never resign the independent direction of those establishments that it founds, and for the condition of which it is responsible. At the same time, ecclesiastical education can as little ignore the State, as the education in State establishments can ignore the Church.

In order to operate in a salutary and successful manner, the Church, in matters of her own establishments, will rather proceed upon a like good understanding with the Government, and the Government, in regard to its State establishments, will proceed upon a like good understanding with the Church; and thus both, in order to further their own aims, will have to accord to each other a commensurate influence. Such a good understanding, however, is, by its very nature, based upon mutual confidence. This confidence cannot be enforced by laws, but it must be made feasible by legal enactments that will secure to each part that which it has a right to claim. To the State such an influence upon the ecclesiastical establishments must be legally secured as will protect it against dangerous abuse or destructive tendencies; and to the Church

such an influence upon the establishments of the State as may be necessary to assure her that religious instruction in them be not neglected, nor the faith undermined. And it is especially due to the ecclesiastical authorities to accord to them the right of judgment as to whether the instruction given in the Catholic religion or in the theological sciences, really be that which it professes to be.

The State wishing in a general sense to respect the independence of the Church, must consequently also place her in a position so as to enable her to form this judgment independently.

The State cannot, therefore, permit any teacher of the Catholic religion or of theology, to teach at public establishments, if he be not thereto authorized by the Church. Only upon such a basis can confidence be established between the State and the Church in matters of public instruction, and such a good understanding be effected as is necessary for the furtherance of the object which both have in view. Guided by these ideas, the Undersigned, with profound humility, now begs leave to enter upon an examination of the special propositions and wishes of the bishops.

The Episcopal Assembly has declared itself, in reference to the education of candidates for holy orders, as follows:—

“Nothing affects the Church more nearly, nothing pertains more undeniably to the extent of her power, than the education of the candidates for holy orders, and as in connexion therewith, the instruction in theology, as also the arrangement and direction of the ecclesiastical seminaries. The assembled bishops recognize that the spirit and circumstances of present times impose upon them, more than ever, the responsibility of duly providing with the utmost zeal for the scientific capabilities of the teachers and pastors of a Christian people, and that their endeavours to this end should be characterized by perfect harmony; they acknowledge that it would lead to the disadvantage and dishonour of the Catholic Church, if the charge could be with justice preferred against her, that under the direction of the bishops the scientific and classical education of the clergy has retrograded.

“In this as in all other respects they hold fast to the principle, that that which already exists, in so far as it is conformable to the purpose and useful, must be upheld.

“These are the leading ideas by which they have been guided throughout in the drawing up of the following fundamental principles of theological education; and His Majesty’s Ministry will doubtless come to the conviction, that the interests which the State may have at stake, with respect to the form of the theological education, can be in no way prejudiced thereby.

“Only such candidates are to be admitted to the theological studies as shall have gone through the upper and under gymnasiums with sufficient success.

“The study of theology is to be divided into four annual courses, and is to be taught by not less than six professors.

“The general course of learning is ordinarily to embrace—the Hebrew Language, Biblical Knowledge of the Old and New Covenant, History of the Church, History of the Holy Fathers, Ecclesiastical Jurisprudence, Positive Divinity, Morality, Pastoral Letters, Catechistics, and Pedagogical Science.

“Nevertheless, the bishops are to be at liberty to exempt single candidates from the study of the Hebrew language.

“The study of the Oriental languages and the higher exegesis is requisite for all who wish to attain the degree of doctor of theology.

“Besides the above, lectures on the following extraordinary departments of learning shall be delivered, proportionably to the number of disposable professors, viz.: Christian archæology, apologetics, history of the revelation, synodology, history of positive divinity, and doctrine of symbols.

“To such students of theology as may not have attended lectures on metaphysics and moral philosophy, previous to their admittance, an opportunity will be afforded to receive instruction in those sciences from a professor of theology.

“The bishops reserve to themselves the right of determining the succession of the ordinary course of lectures, but they intend to establish an uniformity in this respect, according to the usage existing in the various dioceses.

“As a general rule, only such persons will be appointed to professorships of theology as may have proved their qualifications in virtue of a verbal and

written examination, but an exception can herein be made in favour of persons who shall have already testified their superior learning by distinguished literary productions.

“In the event of any professorship become vacant, a competitors’ examination must be fixed and made public by the bishop, at least throughout the whole diocese. If any such vacancy occur at establishments pertaining to several dioceses, the same announcement is to be made in each of the respective dioceses.

“For universities and lycæums such a public announcement has likewise to be ordered by the bishop, and has to be made through the medium of the public press, but only within the hitherto accustomed borders of each Crown-land in which the same be situate. The bishops will communicate to the Government authorities the occurrence and public announcements of such vacancies.

“Only such persons are to be admitted to the competition for theological professorships as shall have attained either the degree of doctor of theology or have satisfactorily passed an examination in this science.

“The questions for examination are to be determined by the bishop in whose diocese the professorship has become vacant.

“The competitors’ examination shall always take place at the institution where the professorship has become vacant. It shall be granted to those persons who apply for professorships at universities or lycæums to pass their competitors’ examination at all universities and lycæums; and in such Crown-lands in which there is no university or lycæum, they may also do so at the diocesan institutions.

“Touching the examination in writing, the bishop shall procure the arbitrement of the professors, not only of the institution in question, but also of the professors of another theological institution.

“The arbitrement on the verbal examination is to be made by the professors of the institution at which the same shall have taken place, and by a commissioner of the bishop.

“After the arbitrement on the examinatory performances shall have been made in due form, the bishop will select from among the applicants that person who shall promise the greatest guarantee for his salutary efficiency, and must then propose him to the Government authorities, at the same time stating the grounds whereupon his worthiness has been deemed entitled to a preference. Should these authorities, in virtue of their office, not offer any objection to the person so proposed, or as soon as any such objection shall have been removed, the bishop shall then appoint him to the professorship. The same proceeding is to be observed when the bishop proposes an individual distinguished for his literary productions, though he may not have passed the competitors’ examination.

“The professors at universities and lycæums, with the exception of such as shall have been approved in consequence of distinguished literary productions, shall hold their appointments provisionally for three years, as it has always hitherto been the case. In order to obtain their permanent appointment they will be required to have obtained the degree of doctor of theology, but from this regulation the professor of pastoral letters is exempted.

“When a member of any religious order shall desire to serve in the capacity of priest or pastor, he will in such case be required to possess the same scientific qualifications as other priests and pastors. The theological institutions of convents are in like manner as all others subject to the direction and superintendence of the bishops. The same regulations with reference to the various departments of learning, the number of annual courses, and as regards the professors are also applicable to them.

“Any exception which may be made in respect of the educational establishments of religious orders in Dalmatia and Gallicia, consequent upon the peculiar circumstances of these provinces, must be left to the discretion of the respective dioceses.

“The professors at educational establishments of convents shall be proposed to the bishop by the principal of the order: the former will then subject their classical qualifications to a similar examination as above. If the result thereof be satisfactory, and the candidate be in all other respects adapted for the appointment, the bishop shall then propose him to the Government authorities, stating at the same time the grounds upon which he has been found approved.

If on the part of the Executive no objections ensue, or such objections shall have been removed, then the bishop will accord to him the right of lecturing on theology.

"The bishop has the right to demand the surety of a friendly disposition towards the Church from all professors or teachers of theology, as also constantly to watch over their mode of life, their doctrines, and the performance of all their official functions; and if in any of these respects they shall have shown themselves unworthy of their calling, he is empowered to deprive them of the right of lecturing on theology.

"The bishops will obtain for themselves certainty as to the progress of the students in every branch of learning, by carefully watching over their examinations. As regards the results of the yearly or half-yearly examinations, certificates shall be given as has hitherto been customary.

"Latin is the ordinary language for theological lectures. The extent to which the application of the national idiom of the country may be necessary in order to qualify the pastor for his holy calling, is a matter to be settled amongst the bishops of the same Church province.

"At all institutions where the degree of doctor of theology has hitherto been bestowed, the bishops reserve to themselves the right of nominating at least one moiety of the examiners at these rigid examinations, from among the professors or doctors of theology.

"It would be salutary and desirable that a higher ecclesiastical institution be established in Vienna, as in a central position of the empire, under the directing influence of the Church.

"The theological institutions, however, cannot be expected to flourish, if professors be not appointed who with true piety unite also extensive learned acquirements and great literary zeal. Yet it will continue to be exceedingly difficult to meet with such men, as long as the salaries of the professors of theology remain so low as they are at present, and which at some universities are limited even to sums varying from 600 to 800 florins.

"The professors too at the diocesan establishments deserve consideration, the more so as the number of scholars, and therefore also the scope of their labours, is almost entirely dependent upon the extent of the diocese; and here it must be borne in mind also, that the clergy for several of the most extensive dioceses are educated at the diocesan establishments.

"For these latter professors it is therefore also very desirable that their salaries be augmented, and that they should receive pensions, under the same conditions as others. It is true that the financial difficulties are great, yet it is also to be hoped they will rapidly pass away. The assembled bishops, therefore, recommend this matter most warmly to the kindly-disposed appreciation of His Majesty's Ministers. Zeal and professional faithfulness in a pastor being qualities not less requisite than corresponding learned acquirements, the bishops conceive it to be their sacred duty, not only to provide for the classical instruction of the candidates for holy orders, but also to educate them in the principles of true piety and earnest zeal for the salvation of souls. This takes place in the ecclesiastical seminaries, the establishment of which institutions was ordered by the Council of Trent; and—agreeably to the rules of the ecclesiastical laws—they must be under the direction of the bishops.

"If the object for which they were called into life is to be attained, then also, it is indispensable that the candidates for theology should, as a general rule, pass the whole time during their course of learning in the seminaries. The Executive Government has hitherto, in this respect, in no wise interfered with the Church; on the contrary, it has rather supported her by its enactments.

"Every diocese, as far as circumstances may permit, is to have its own seminary; but wherever the prescribed arrangements for complete theological studies cannot feasibly be provided in them, the theologians of the fourth annual course, at least, shall receive instruction in a diocesan seminary, and thus an opportunity shall be afforded to the bishop, to become acquainted with the candidates for holy orders, before he ordains them.

"The establishment of seminaries for youths is first of all grounded upon an order of the Council of Trent, and is justified by the very nature of the case. The entrance into holy orders must take place by voluntary choice; nevertheless, it can only have a salutary effect when a number of youths are

educated under circumstances which bring the thought of eternity closer home to their minds, and separate them more effectually from the various temptations and allurements of the world, to which the youthful age in our days is more especially exposed. In the event, also, of their finally not devoting themselves to the ecclesiastical calling, surely the more sublime direction which is here given to their education, can only be expected to exercise a blessed influence over all persons with whom they may come in contact in every other relation of life.

“But independent of this, the bishops, in establishing these seminaries to an extent consistent with the means at their disposal, are only exercising a right which is secured even to every citizen by section 4 of the fundamental rights.

“The bishop is bound by the ecclesiastical law, not to appoint any person to a subdiaconat (vide Note 1), who cannot prove that a sufficient subsistence is secured to him. The more exact determinations of the sum that shall be deemed necessary for the Tisch-titel (vide Note 2) must depend upon the peculiar circumstances in the various provinces, and is therefore to be fixed by the provincial episcopacy. The judgment touching the qualification for the holy ordinations, the bishops must reserve exclusively to themselves. Probably the idea of prescribing a State’s examination for the clergy has been already abandoned; and, indeed, this could in no case be agreed to, as a condition upon which the qualification for clerical ordination, or for the exercise of clerical functions, is to depend. The bishops by no means undervalue the advantages which accrue from a due and proper examination; on the contrary, they impose it upon themselves as a positive obligation, to investigate the classical efficiency of the candidates for holy orders by means of conformable and careful examinations.”

Your Majesty’s most faithful and humble Minister of Public Worship and Instruction deems it expedient to submit the following observations hereon.

With respect to the ecclesiastical seminaries, the assembled bishops themselves have acknowledged that the Executive Government has hitherto not interfered with the Church, but has rather supported her by its enactments; hence it is also the more natural, that in future no bishop is to be hindered in the direction of his ecclesiastical seminary, conformably to the rules of the ecclesiastical laws. There can be just as little objection to the establishment of these seminaries for youths, as long as the limits be observed which section 3 of the General Civil Rights defines; but with reference to instruction in the theological branches of learning generally, Your Majesty’s most faithful and humble Cabinet Council is of opinion that, due consideration having been given to the propositions of the bishops, it must make a distinction between the diocesan and convent theological establishments, and the studies of the theological faculty. The former have for their object the education of candidates for clerical orders, and to fit them for their holy calling. These establishments are in their very nature ecclesiastical, and it cannot be the intention of Your Majesty’s Government to claim, on the part of the State, any legislative control over the direction of the same—for in so doing, it would be acting contrary to the spirit of section 3 of the Imperial Charter of 4th March, 1849. But whilst, on the one hand, it is not desirable,—and the bishops themselves admit it,—that in this respect an unlimited scope of action should be given to any single bishop, on the other hand, it cannot be denied that the Executive is fully entitled to investigate the enactments of the ecclesiastical authorities before they are carried into effect, as also to express its wishes in reference to these matters, and to call their attention to any difficulties that may exist in respect thereof. Independent of the fact that the religion-fund, out to which the diocesan establishments are supported, stands in need of great assistance from State property, it must also very much depend upon the regulations of these diocesan and convent establishments, in order to determine the degree of reliance that may be placed in the instruction they impart, with a view of their producing also those capacities wherewithal to supply the chairs of universities and State gymnasiums. The clergy—in the keeping of the parish books, in directing the popular schools, in administering the poor laws, and in registering the marriage-consents, in so far as the safety of civil rights require it—fulfil also certain official duties, in the discharge of which they appear at the same time as agents of the State; and surely these functions cannot be entrusted to them if no guarantee were assigned to the Executive with respect to such

Regulations in these theological establishments as may secure a sufficiently satisfactory education. The above resolutions of the Episcopal Assembly are, in reference hereto, quite conformable; they offer, indeed, more security for the education of the clergy, than the enactments of Government have done up to this period; and these latter enactments might be therefore at once rescinded, if these resolutions of the Episcopal Assembly could be looked upon as a rule at once binding upon the bishops and their successors. With these diocesan establishments, however, it is a very different case to what it is with the universities. The latter have for their object the preservation and further development of the sciences. The theological faculties form a part thereof, which, in the course of historic development, has become intimately interwoven with the entire constitution of the universities. Now if these faculties are not to be forcibly thrown out of this connexion, then the general academical laws must be likewise respected by them; in reference to science they must participate in the organization of the other faculties, and the teacher must be in like manner appointed. The universities, however, must also indisputably operate on every-day life, and hence, in the formation of the various faculties, particular regard must be had to the practical objects to which science is to be made subservient. The peculiarity of the theological science must here, also, be taken into account, as it has for its object a certain aim given through a higher instrumentality.

The theological faculties, therefore, would not be that which they ought to be if they were to be placed without the pale of ecclesiastical authority. But this connexion therewith will be already thereby secured if the professor of the faculty has to receive his authority for delivering lectures on theology from the bishop of the diocese; and hence, also, no professor of theology can be appointed at the universities, nor private tutors admitted to these faculties without Government having previously effected an understanding thereupon with the bishop. The theological faculties, by the very nature of their position and duties, are not intended for the benefit of any single diocese; but if they know how to inspire confidence, the clergy will come to them from all parts of the empire, and there unite together in order to require that higher education which the representatives of the religious interests stand so much in need of.

For this reason, also, the appointment of the professors of the theological faculty cannot be left to the bishop of that diocese in which the university may be situate. On the other hand, the bishop in whose see there is a theological faculty may claim to exercise the same influence over the education of his clergy as the other bishops do. To this end, however, it would only be requisite that every bishop in whose see there is a theological faculty, should have a diocesan educational establishment over which he would be enabled freely to dispose, *id est* within those limits which have been defined by the Episcopal Assembly or by the existing regulations. It would then but remain to be wished that his choice might fall on persons who, being possessed of the necessary qualities, could at the same time be appointed by the Government as professors of the theological faculty.

Inasmuch as the theological faculty would be deprived of all its efficiency and sink down to the level of a very insignificant institution if its professors were not to be acknowledged by the ecclesiastical authorities in their capacities as such, so also the importance of the theological dignity of doctor is in like manner dependent on its ecclesiastical worth. In order to uphold the same, it appears very proper that the bishop should nominate one moiety of the examining commissioners, and that every one who is to be advanced to this academical honour should make a confession of the Creed of Trent. With regard to the wish of the bishops, that a higher ecclesiastical institution should be established in Vienna under their directing influence, it cannot be denied that such an institution, if properly regulated, might prove to be of great salutary benefit; indeed, under present circumstances, it is even of more urgent necessity than it has hitherto been; for in proportion to the greater liberty that has been accorded to the Church, the want of a sufficient number of priests will be augmented, and these again should be thoroughly well prepared for the special branches of their calling, and possess at the same time a general classical education. The bishops would be entitled to the direction of such an institution as a purely ecclesiastical establishment. Propositions with respect to the more minute details of its regulations must be awaited from the bishops. May it please your Majesty to command that they be required to furnish the same.

The Episcopal Assembly in its memorial further expresses itself with reference to religious instruction in the "intermediate schools," as follows :

"Where and in whatsoever manner the Catholic religion be taught, the direction and superintendence thereof comes within the extent of ecclesiastical authority ; in virtue of section 4, the providing of instruction in the Catholic religion at the popular schools has been committed to the Catholic Church, but the same principle must be applied to the higher and intermediate schools. The bishops cannot consent that the Catholic faith and its moral doctrines should be taught by priests who do not enjoy their entire confidence. Therefore it should be left to them to appoint the teachers of religion at these latter establishments, under the same conditions as those under which it was proposed that the bishop should appoint the professors of theology. Thereby the State will not be deprived of any influence that may really be desirable. It is here, of course, taken for granted that religious instruction should always belong to the ordinary and generally binding course of studies in the upper and lower gymnasiums, as well as in all intermediate or middle schools. Nevertheless, it is to be wished that the Catholic religion, to which almost the entire population confesses, should also be duly represented at the philosophical faculties, and that the appointment for the professorships of religious instruction, whether already existing or henceforward to be created, should be entrusted to the bishop in like manner as signified above.

"It is of particular importance that the word of God should be proclaimed to the studying youth with all the efficacy of eloquence, and that by this means all those pernicious influences to which youthful inexperience is now more than ever exposed may be effectually combatted with. Therefore, at all the University churches where this has hitherto not been the case, a preacher should be appointed and selected for that purpose by the bishop. It will be the duty of the bishop to commit this charge into the hands of a priest, who, combining erudite learning with the distinguishing gift of eloquence, will in every way be qualified to exercise a beneficial and enduring influence upon young persons."

The most faithful and humble Undersigned must make the following observations hereupon.

The gymnasiums and the other intermediate schools have for their object not merely to teach but also to educate. The leading idea upon which the measures for their reorganization, now in the course of being carried out, were based, was to impart to these schools such arrangements as will render an educational influence in them practicable by means of a cordial co-operation on the part of all the teachers. The future welfare of Austria will depend in no small degree upon the manner in which this influence is exercised. If it is to be prevented, that the increased mental cultivation in this empire should have the effect of operating upon its population in a manner decomposing and destructive instead of ennobling and strengthening ; then certainly it can only be done by keeping this mental cultivation in intimate connexion with, and causing it to be penetrated by, religion. At these schools especially, the religious instruction must not be isolated ; but, on the contrary, just as in the case of every careful private education, exertions are made that it go hand-in-hand with the instruction in the sciences, so that the information imparted on every subject of learning becomes a part and portion of a well-ordered and entire plan, and that each part and portion thereof support and complete the other ; so also at our public schools this aim must be striven for.

Now, in order that such a proper and becoming place be secured for the religious instruction at our gymnasiums, it must be differently regulated to what it has hitherto been. Till now, religion has been taught by a catechist throughout all the six classes of our gymnasiums. Agreeably to the regulations which they will now receive, the hitherto separately existing course of two years in philosophical studies, has been incorporated in them, and they will at present consequently comprise eight classes. It is impossible that any single teacher should impart religious instruction in all these eight classes, and hence it would appear necessary that two teachers of religion should be appointed to every complete gymnasium, viz. : one for the lower gymnasium, and the other for the four upper classes. By this arrangement, however, these teachers of religion would have less employment than the catechists have hitherto had ; and, indeed, also less than all the other teachers at the gymnasium ; and thus it were easily possible for them to take part in the instruction of other subjects of learning,

provided always that they also possess the requisite scientific qualifications necessary thereto. But upon the fact of their really possessing these qualifications depends in a great measure the salutary efficacy of that religious instruction which they are to impart. Agreeably to the provisional enactment that was sanctioned by your Majesty's resolution bearing date 23rd August, 1849, relating to the examination of all candidates for the appointment of teachers at gymnasiums, it is required of every such teacher, not only that he produce proofs of his general mental cultivation, but also that he be able to impart instruction in at least two kindred branches of learning. The teachers of religion would therefore stand behind the other teachers in point of influence and respectability, if they were not to conform to these same regulations. Besides this, however, the participation of the teachers of religion in other subjects of instruction, will very materially tend to enliven their religious instruction, and have the effect of causing a harmonious influence to pervade the entire system of education.

These views make it appear desirable that in future only such persons should be appointed as ordinary teachers of religion, as in point of learned acquirements shall be found to stand upon a parallel eminence with the other teachers, and that they should take part in other kinds of instruction. Such well-qualified teachers of religion, however, cannot be expected to be found in greater numbers, until the Church shall have had time to prepare the capacitated members of her clergy to this end. But at the present moment, especially, inasmuch as the newly-resecured independent activity of the Catholic Church will render it necessary that she avail herself to a great extent of the best capacities of her clergy, in order to supply the various branches of her internal administration,—teachers of religion for our gymnasiums, corresponding to the above rule, can but rarely be met with; and wherever they are wanting, assistants who can satisfy the requirements which have hitherto been demanded of the catechists, must in the meantime content. The adjudgment of the capacity and the bestowal of the authority to impart instruction in the Catholic religion at any public establishment generally, and in particular with respect to instruction of a certain kind, are matters that come within the limits of ecclesiastical authority. Nor can it be denied that it would be very desirable for the object of religious instruction, that the person imparting it should also possess the entire confidence of his bishop. But when a teacher of religion at the same time administers any other branch of education, and when, further, he is to have the same influence in the direction of the gymnasium, as the other teachers, then and in that case the bestowal of his appointment must necessarily rest with him who supports the establishment, and who is also responsible for its condition; this appointment must therefore be left to the Government in all cases pertaining to State establishments.

If, consequently, the demand of the bishops cannot be satisfied to its full extent with respect to the appointment of teachers of religion at the intermediate schools, it appears nevertheless desirable to accord to them a greater influence in these respects than they have hitherto possessed. Agreeably to the arrangement that has been in force till now, the bishop used to send in an application for the filling up of any vacancy that had occurred, whereupon a nomination on the part of Government ensued. Experience, however, has shown that in this manner persons were proposed and appointed as teachers of religion, who have proved themselves in every way unworthy of this office. And though the appointment took place under the approval of the bishop, still, Government was always considered to be responsible for it, and the reason of the occurrence of such cases might nevertheless be attributable in part to the bishop, who in his adjudgment of the candidates proposed did not proceed with that severity and carefulness necessary in order to have kept unworthy persons at a distance. This carefulness, however, on the part of the bishops, may be confidently expected, when such an influence in the choice of the candidates shall have been accorded to them as will throw also the entire responsibility of the same upon them.

Hence the following proceeding appears to answer every due consideration, and your Majesty's faithful and humble Cabinet Council ventures to solicit your Majesty's sanction thereto.

Whenever at a gymnasium of the State the situation of a teacher of the Catholic religion shall have become vacant, then conformably to the proposed plan of the assembled bishops, an examination of the competitors for the same

shall be held, and the bishops are thereupon to communicate the name of the most approved applicant, together with his examination performances, to the public school authorities of the land. In the event of no political consideration existing against the person so named, the proposal of the bishops, as a general rule, is not to be deviated from; and only under peculiar circumstances, by way of exception, it shall be reserved to the Government to choose another priest who has likewise been admitted as competent by the bishop. The character of the appointment, however, which the person so proposed by the bishop shall receive, will depend upon his other qualifications. If he shall have submitted himself with good success to the examination prescribed for the candidates for the office of teacher at the gymnasiums, then he will be appointed as an ordinary teacher; but if he shall have in no way submitted himself to this examination, or only with an unsatisfactory success, in this case he shall be appointed merely as an assistant teacher. At the other intermediate schools, if they be State establishments, the appointment of teachers of religion shall be proceeded with in like manner.

With reference to the wish expressed, that the Catholic religion should be also duly represented at the philosophical faculties, and that the filling up of such chairs as may be created, or rather, as are to be retained, should be likewise intrusted to the bishop, your Majesty's most faithful and humble Cabinet Council admits, that at a time in which the cultivation of the sciences has not unfrequently led to a tendency inimical to religion, the Catholic Church must feel herself especially called upon to undertake also the guidance of the cause of Christianity at the philosophical faculty, in order to point out its connexion with the real acquisitions of science, and to correct misapprehensions and prejudices. In consequence of the more free regulations that have been introduced into the university studies, which do not permit that the holding of lectures be considered as an exclusive right of the appointed professors, the Church has already, it is true, an opportunity afforded to her of scientifically demonstrating her mode of contemplation. Still, it is certainly to be feared, that it will not be so easily possible for the Church to avail herself of this opportunity, unless care be also taken to insure the support of the person she may select for this office. On the other hand, the object which the Episcopal Assembly has in view can be only then attained when a person of peculiarly distinguished capabilities shall be found disposable for the delivery of these lectures. Therefore, however desirable it is admitted to be to see the talents of such men made available at the philosophical faculties, it appears nevertheless not expedient formally to systemize separate chairs for this purpose; still, as soon as the bishop is in a position to name any person peculiarly qualified to represent Christian convictions on the field of science, it would be well to determine an adequate salary for his services, provided always that no other scruple exists against him. May it please your Majesty to empower your most faithful and humble Minister of Public Worship and Instruction with a view to this end.

As the universities of those countries whose ecclesiastical circumstances are herein treated of, are all intended for the use of a population, the greatest majority of which consists of Catholics, it will be quite suitable that a preacher should be appointed to each of them, in so far as this is not already the case. The election of the same should be intrusted to the bishops, under the presupposition that it would always take place in that spirit which is indicated by the memorial of the Episcopal Assembly.

In reference to the popular schools, the said memorial of the Episcopal Assembly expresses itself as follows: "The Catholic Church does not claim the right to the religious instruction of the Catholic youth alone. She is appointed by God to educate mankind for eternal life! and it is therefore her right and her duty to care for the education of youth in faith and in love. The popular schools owe their origin to the Catholic Church; and if they are now to be violently wrenched away from her, then they will also inevitably fall a prey to the propaganda for destruction and subversion. The future of European society is darkened, as it were, with a veil, which the eye of the All-seeing One alone can penetrate. But this one thing is certain: If European society is to be saved from ruin, then only religion will do it. Hence it is necessary for the Church, but not the less so for the State, that the Catholic Church should retain her directing influence over the Catholic popular schools. The State also has an indisputable right to maintain a directing and superintending influence over these schools; and in their present constitution, it is true, the claims both of

Church and State are in regard hereof duly respected. The regulations, therefore, which are provided by the constitution of these schools touching their direction and superintendence, should henceforward also be retained.

"As the direction of Catholic religious instruction pertains to the Church, consequently the choice of religious school-books can only be determined by the ecclesiastical authorities. And in order that the other books used in these schools may correspond with the general demands of a truly Christian education as well as with the particular wants of the country and the people, it should be left to the bishops of each Crown land to determine these latter books, conjointly with the Government authorities.

"In the present state of the education of European nations, schoolmasters are doubtless indispensable; and if they answer their calling, they are also in a position to exercise a most blessed influence; nevertheless the difficulties connected herewith dare not be passed over. On the one hand, they should be thoroughly instructed in that learning which they teach; on the other hand, a trifling amount of knowledge is sufficient for their vocation; and for a man of general classical education, it would certainly be an insupportable burthen, if he were obliged to devote all his powers to the task of inculcating into the minds of village youths the first and simplest elements of human learning. But, above all, the schoolmaster should possess that firmness and purity of mind which can only be drawn from the holy well of religion. Assuredly a six months' preparatory course of study for the schoolmaster is not sufficient, or certainly only in such cases where it has been preceded by long practical exercise under a proper direction. Still in the event of Government establishing seminaries for schoolmasters, the regulations introduced into them should be weighed with wise circumspection, the "too much" as well as the "too little" should be carefully avoided, and particular regard had to the moral and religious education given in them. Men, who with a superficial and defective education unite great pretensions and a wavering moral character, are everywhere dangerous, yet nowhere more so than in the country school, from whence they may disseminate the most destructive seeds into whole communities.

"That active, crafty party of subversion, whose operations are carried on with so much design, could not wish for better tools. These seminaries for schoolmasters should be therefore brought into a close connexion with the Church, and be considered as diocesan establishments, and be directed and superintended by the bishop in unison with the Government authorities.

"The Catholic popular school cannot be expected to flourish unless the schoolmaster, in his position, unite also with commensurate acquirements truly Catholic sentiments. The bishops cannot permit that a man should be employed as a teacher of the Catholic youth, if his faith and morality be not spotless, and hence they must claim a decisive influence over the appointments of schoolmasters. It must be borne in mind, that a great part of the school-fund consists of the confiscated property of the brotherhoods, and consequently in ecclesiastical estates, and that therefore it is only just that the bishops should claim the right of appointing the schoolmasters who are thus paid out of Church property.

"Many schoolmasters and their assistants live in a state of penury, which cannot but excite the most heartfelt sympathy. In consequence of their great number, obstacles stand in the way of a general improvement of their position, the weight of which no one who calmly considers them can mistake. Still, the most ardent wish must be expressed, that, as far as it is possible, a sufficient income be devised for, and in case of unfitness for further service, a subsistence be secured to them, and that their widows also be duly provided for."

Your Majesty's most humble Undersigned ventures to make the following observations hereon. The right of providing religious instruction in our Catholic popular schools is guaranteed to the Church by § 4 of the Imperial Charter of 4th March, 1849. The Government of your Majesty is imbued with the conviction, that this instruction also, even to the lowest step of the ladder of mental education, dare not be separated from the other branches of learning if it is to be efficacious and intended to promote the there specially prevailing object of education; and that the popular school, least of all, should be permitted to be turned into a field of battle for contending views of life.

On the other hand, the bishops admit the right and the interest which the State has to maintain a directing and superintending influence over these popular schools; and they are of opinion that the claims which both Church and State have upon them are duly respected in their present constitution.

Your Majesty's faithful and humble Minister of Public Worship and Instruction considers it his duty to use his best exertions also for the introduction of improvements in the concerns of the popular schools. The close connexion, however, of the concerns of these schools with the other institutions now in course of entire reorganization, renders it necessary, with respect to any partial changes in the existing regulations, to reserve the settlement of this subject for further discussion; but in so doing it is by no means intended to limit or to prejudice the influence which the Church has hitherto exercised over the popular schools. In conformity with the views that have been developed in this most humble report, the Undersigned, on behalf of your Majesty's most faithful and humble Cabinet Council, very dutifully takes leave to submit the annexed draught of resolutions for the better regulation of the relations of the Catholic Church to public instruction; and further craves permission most respectfully to propose to your Majesty, that it may please your Majesty to sanction:

1stly. That the resolutions which the episcopal assembly has come to in respect of the management of the theological and convent educational establishments may, without hindrance, be fully carried out into practice; always provided that no alterations be determined upon without a previous understanding thereon having been come to with the Government, and that wherever and in so far as diocesan and convent establishments do not conform to these resolutions, that the regulations hitherto existing shall still be complied with.

2ndly. That wherever in future a theological faculty shall be, there also a diocesan institution shall be established.

3rdly. That the appointment of the teachers of religion at the State gymnasiums and the other intermediate schools, be proceeded with in manner as above proposed.

4thly. That at universities where it has hitherto not been the case, preachers are to be appointed, and their election is to be intrusted to the bishops.

May it please your Majesty to sanction lastly, and

5thly. That the hitherto solemnized professorships of religion at the philosophical faculties be abolished, and that, on the other hand, your Majesty's faithful and humble Minister of Public Worship and Instruction be empowered to assign an adequate salary to such persons, as may be peculiarly qualified, scientifically, to represent Christian convictions at the philosophical faculties.

(Signed) THUN.

Vienna, April 13, 1850.

Upon this report the following Imperial resolutions were issued:

In consideration of §§ 2, 3, and 4, of the Charter of 4th March, 1849, and in conformity with the propositions of my Minister of Public Worship and Instruction, and the advice of my Cabinet Council, I sanction the following resolutions for all Crown-lands for which that Charter was issued:

§ 1. No person can officiate as teacher of the Catholic religion, or as professor of theology, at the lower or higher public institutions, without having previously received his authority hereto from the bishop in whose diocese it is situate.

§ 2. The bishop is at all times at liberty to withdraw this authority given to any such person. But the withdrawal of such an authority alone does not deprive a teacher, appointed by the Government, of his legal claims to a pension.

§ 3. It remains with the Government to appoint the persons who have received the authority of the bishop to lecture on theology as professors at the theological faculties, or to grant their admittance as private tutors, and these persons will have to administer their offices conformably to the tenor of the academical laws.

§ 4. The bishop shall be at liberty to point out to his seminarists the lectures and the succession of them which they are to frequent at the university and to examine them thereupon in his seminary.

§ 5. For the severe examination of the candidates for the theological dignity of doctor, the bishop nominates one moiety of the examining commissioners, who are to be men that have attained the same theological degree.

§ 6. No person can attain the theological dignity of doctor who shall not have made a confession of the Creed of Trent, either before the bishop or his delegate.

My Minister of Public Worship and Instruction is charged with the carrying out of these Resolutions. I sanction further all other propositions contained in this report, and empower my Minister of Public Worship and Instruction to carry the same into effect.

(Signed) FRANZ JOSEPH.

Vienna, April 23, 1850.

Note 1. *Sub-diaconat*, id est, the second degree of the higher ordination.

Note 2. *Tiesch-titel*, id est, a stipend granted by the Government, upon the recommendation of the bishops, out of the religious fund, which must be secured to the clerical candidate before he is ordained as priest; but it is only received when he is incapacitated from doing further duty.

Inclosure 3 in No. 2.

Imperial Ordinance of April 18, 1850.

Kaiserliche Verordnung vom 18. April 1850,
wirksam für alle jene Kronländer, für welche das Allerhöchste Patent vom 4. März 1849
erlassen ist,
mit welcher das Verhältniß der katholischen Kirche zur Staatsgewalt festgestellt wird.

Zum Vollzug der durch §. 2 des Patenten vom 4. März 1849 der katholischen Kirche verbürgten Rechte, genehmige Ich über Antrag Meines Ministers des Cultus und Unterrichts und auf Einrathen Meines Ministerrathes für alle Kronländer Meines Reiches, für welche jenes Patent erlassen ist, nachstehende Bestimmungen:

§. 1.

Sowohl den Bischöfen, als den ihnen unterstehenden Gläubigen steht es frei, sich in geistlichen Angelegenheiten an den Papst zu wenden, und die Entscheidungen und Anordnungen des Papstes zu empfangen, ohne dabei an eine vorläufige Zustimmung der weltlichen Behörden gebunden zu seyn.

§. 2.

Den katholischen Bischöfen steht es frei, über Gegenstände ihrer Amtsgewalt und innerhalb der Gränzen derselben an ihren Clerus und ihre Gemeinden ohne vorläufige Genehmigung der Staatsbehörde Ermahnungen und Anordnungen zu erlassen; sie haben jedoch von ihren Erlässen, in soferne sie äußere Wirkungen nach sich ziehen, oder öffentlich kundgemacht werden sollen, gleichzeitig den Regierungsbehörden, in deren Bereich die Kundmachung erfolgen, oder die Anwendung geschehen soll, Abschriften mitzutheilen.

§. 3.

Die Verordnungen, durch welche die Kirchengewalt bisher gehindert war, Kirchenstrafen, die auf bürgerliche Rechte keine Rückwirkung üben, zu verhängen, werden außer Kraft gesetzt.

§. 4.

Der geistlichen Gewalt steht das Recht zu, Jene, welche die Kirchenämter nicht der übernommenen Verpflichtung gemäß verwalten, in der durch das Kirchengesetz bestimmten Form zu suspendiren oder abzusetzen, und sie der mit dem Amte verbundenen Einkünfte verlustig zu erklären.

§. 5.

Zur Durchführung des Erkenntnisses kann die Mitwirkung der Staatsbehörden in Anspruch genommen werden, wenn denselben der ordnungsmäßige Vorgang der geistlichen Behörde durch Mittheilung der Untersuchungsacten nachgewiesen wird.

§. 6.

Mit der Durchführung dieser Bestimmungen ist Mein Minister des Cultus und Unterrichts beauftragt.

Franz Joseph m. p.

Thun m. p.

(Translation.)

Imperial Rescript of 18th April, 1850, valid for all those Crown Lands to which the Letters-Patent of the 4th of March, 1849, apply, by which the relations of the Catholic Church to the State are settled.

IN accordance with the rights which have been guaranteed to the Catholic Church by § 2 of the Letters-Patent of the 4th of March, 1849, I sanction, at the recommendation of my Minister of Public Worship and

Education, and on the advice of my Council of Ministers for all Crown lands of my empire to which that patent applies, the following regulations:—

§ 1. It is permitted, as well to the bishops as to the faithful under them, to address themselves on ecclesiastical affairs to the Pope, and to receive the decisions and ordinances of the Pope without previous consent of the temporal authorities.

§ 2. The Catholic bishops are permitted, on subjects dependent on their official authority and within the limits of the same, to address admonitions and ordinances to their clergy and congregations, without previous consent of the civil authorities. They are, however, bound to communicate copies of their decrees, in as far as they may superinduce external consequences, or be destined for publication, simultaneously to the Governmental authorities in whose district the publication is to take place or the edict is to be applied.

§ 3. The ordinances by which the ecclesiastical power has hitherto been prevented from decreeing such ecclesiastical punishments as shall not re-act on civil rights, are revoked.

§ 4. The ecclesiastical power shall have the right to suspend or to remove from their ecclesiastical office, and in the forms laid down by the canon law, such persons as shall not administer them according to the obligations which they have contracted; and to declare that such persons have forfeited the emoluments connected with the offices.

§ 5. The co-operation of the civil authorities for the execution of the sentences may be required, whenever the procedure of the ecclesiastical authority shall have been proved to them by communication of the acts of investigation to have been regular.

§ 6. My Minister of Public Worship and Education is charged with the execution of this decree.

(Signed) FRANCIS JOSEPH, m. p.
(Countersigned) THUN, m. p.

Inclosure 4 in No. 2.

Decree of the Minister of Public Worship of July 15, 1850.

Verordnung des Ministers des Cultus und Unterrichts vom 15. Juli 1850, wirksam für alle jene Kronländer, für welche das Allerhöchste Patent vom 4. März 1849*) erlassen ist, in Betreff der Straf- und Disciplinar-Amtshandlungen gegen katholische Geistliche, dann des Wirkungskreises der Regierungsbehörden in Angelegenheiten des katholischen Gottesdienstes und der Pfarr-Concursprüfungen.

Durch die kaiserliche Verordnung vom 18. April l. J. (Reichsgesetzblatt, L. Stück, 3. 156), sind die allgemeinen Bestimmungen über die Stellung erlassen, welche auf Grundlage des Allerhöchsten Patents vom 4. März 1849, §. 2, die katholische Kirche in den Kronländern einzunehmen hat, für welche jenes Allerhöchste Patent erlassen worden ist.

Zugleich haben Seine Majestät mit Beziehung auf die Beschlüsse der im vorigen Jahre zu Wien stattgehabten Versammlung der Bischöfe jener Länder Allerhöchst anzuordnen geruht:

1. daß, wenn ein katholischer Geistlicher seine Stellung und die ihm in derselben für kirchliche Zwecke zustehenden Befugnisse, zu anderen Zwecken in der Art mißbraucht, daß seine Entfernung vom Amte für nothwendig erkannt wird, die Behörden sich deshalb vorerst mit seinen kirchlichen Vorgesetzten ins Einvernehmen setzen sollen;

2. daß es jedem Bischöfe frei stehen solle, den Gottesdienst in seiner Diocese im Sinne der von der Versammlung der Bischöfe gefaßten Beschlüsse zu ordnen und zu leiten.

In diesen Beschlüssen haben die Bischöfe es sich zur Pflicht gemacht, Alles, was an der bestehenden Gottesdienstordnung zweckmäßig und heilsam ist, sorgsam aufrecht zu halten und keine Abänderung ohne Zustimmung der Provinzialsynode zu machen; sie

*) Im Ergänzungsbande des Reichsgesetzblattes, Nr. 151.

haben ausgesprochen, daß sie in der veränderten Stellung der Gesetzgebung eine doppelte Aufforderung finden, jeder willkürlichen Neuerung und jedem Mißbrauche, welcher sich beim Gottesdienste einschleichen könnte, mit unermüdlicher Thätigkeit zu begegnen.

3. Daß die vollständige Durchführung der von der Versammlung der Bischöfe über die Pfarr-Concursprüfung getroffenen Bestimmungen, unter dem Vorbehalte, daß dieselben nicht ohne gepflogene Rücksprache mit der Regierung, abgeändert werden, kein Hinderniß finden solle, jedoch dort, wo und in soweit als jene Beschlüsse nicht zur Richtschnur genommen werden, bei der Pfarr-Concursprüfung nach den bisherigen Anordnungen vorgegangen werde.

Die Beschlüsse der bischöflichen Versammlung in Betreff der Pfarr-Concursprüfung sind folgende:

„Die Pfarr-Concursprüfung soll in jeder Diöcese jährlich zum wenigsten einmal und zwar mündlich und schriftlich vorgenommen werden.“

„Gegenstände dieser Prüfung sind:

1. Dogmatik.
2. Erläuterung der heiligen Schrift nach der Vulgate.
3. Moral und Pastoral sammt Liturgik mit vorherrschend praktischer Richtung.
4. Kirchenrecht.
5. Vollständiger Entwurf und theilweise Ausarbeitung einer Predigt.
6. Mündlicher Vortrag.
7. Katechese.“

„Zur Erlangung jeden Amtes selbständiger Seelsorge ist erforderlich, daß der Bewerber die Pfarr-Concursprüfung mit gutem Erfolge bestanden habe.“

„In wiefern für Canonicate, mit welchen zwar die Verpflichtung zur Seelsorge, aber kein selbständiges Seelsorgeamt verbunden ist, die Pfarr-Concursprüfung nothwendig sei, bleibt dem Ermessen des Diöcesan-Bischofes überlassen.“

„Zur Pfarr-Concursprüfung sollen nur Solche zugelassen werden, welche seit wenigstens drei Jahren die Befugniß zur Verwaltung der Seelsorge erlangt haben.“

„Die Concursprüfung hat in der Regel für sechs Jahre zu gelten, doch kann durch Provinzial-Concillium ein längerer oder kürzerer Zeitraum bestimmt werden. Nur die dienstthuenden oder emeritirten Professoren der Theologie, jene Doctoren der Theologie, welche zur Erlangung dieser Würde sich den strengen Prüfungen unterzogen und solche Männer, welche sich in einem theologischen Fache als Schriftsteller ausgezeichnet haben, dürfen von Ablegung der Pfarr-Concursprüfung dispensirt werden.“

„Von Wiederholung derselben kann der Bischof auch Solche loszählen, welche als Seelsorger oder in anderer Weise ihre theologischen Kenntnisse hinreichend erprobt haben. Kein Bischof ist verbunden, die Pfarr-Concursprüfung, welcher sich ein Bewerber in einer fremden Diöcese unterzogen hat, als für Pfründen seines Sprengels genügend anzuerkennen.“

Zur Durchführung dieser Allerhöchsten Entschliessungen wird Nachstehendes angeordnet:

1. Hinsichtlich des Straf- und Disciplinarverfahrens gegen katholische Geistliche.

Nachdem den Bischöfen die selbständige Ausübung der kirchlichen Strafgewalt durch die §§. 3 und 4 der kaiserlichen Verordnung vom 18. April l. J. eingeräumt worden ist, so hat es von dem durch Hofkanzleidecret vom 3. März 1792 angeordneten Verfahren, dem zufolge Disciplinar-Untersuchungen gegen katholische Geistliche mittelst einer aus geistlichen und weltlichen Beamten zusammengesetzten Commission vorzunehmen waren, abzukommen.

Ihrerseits werden die weltlichen Behörden innerhalb ihres gesetzlichen Wirkungskreises ebenfalls selbständig vorzugehen und es werden denselben dabei folgende Bestimmungen zur Richtschnur zu dienen haben:

- a) Wenn ein katholischer Geistlicher eines Verbrechens oder eines der gerichtlichen Amtshandlung unterliegenden Vergehens beschuldigt wird, so ist die Angelegenheit der competenten Gerichtsbehörde zu überweisen und die politische Behörde wird dabei nur in soweit einzuschreiten haben, als sie durch die gesetzlichen Vorschriften überhaupt zur Unterstützung der Gerichtsbehörden angewiesen ist.
- b) Wenn gegen einen katholischen Geistlichen Beschwerden anderer Art, über seine geistliche Amtsführung oder sein Betragen in einem geistlichen Amte erhoben werden, so haben sich die politischen Behörden in der Regel in eine Amtshandlung darüber nicht einzulassen, sondern dieselben an den kirchlichen Vorgesetzten zu verweisen. Sollte jedoch von dieser keine Abhilfe geschafft werden, und Grund zu der Beforgniß

vorhanden seyn, daß daraus Gefahr für die öffentliche Ruhe und Ordnung hervorgehe, oder sollte das Benehmen eines Geistlichen der öffentlichen Ruhe und Ordnung unmittelbar Gefahr drohen, so wäre hievon sogleich die Anzeige an den Statthalter (Landeschef) zu erstatten, welchem es obliegen wird, sich über die erforderlichen Maßregeln mit dem Bischofe in das Einvernehmen zu setzen und zu beurtheilen, ob zu diesem Ende die politische Behörde zur Erhebung des Thatbestandes zu schreiten habe.

Ohne Weisung des Statthalters (Landeschefs) ist mit Erhebung des Thatbestandes nur dann vorzugehen, wenn Gefahr am Verzuge ist, und in solchen Fällen gleichzeitig die Anzeige an den Statthalter zu erstatten.

Die den politischen Behörden obliegende Pflicht, den Vollzug der in Betreff der Führung der Matrikeln, des Schul- und Armenwesens bestehenden gesetzlichen Vorschriften zu überwachen, bleibt durch diese Bestimmungen unberührt.

2. Hinsichtlich des Gottesdienstes.

In die Angelegenheiten des Gottesdienstes haben die politischen Behörden nicht anordnend einzugreifen, sondern lediglich darauf zu achten, daß sich allenthalben nach obigen Beschlüssen der bischöflichen Versammlung benommen werde, und wenn wider Erwarten Abweichungen davon stattfinden sollten, den Landeschef in die Kenntniß zu setzen, welcher darüber mit dem Bischofe das Einvernehmen zu pflegen, das Geeignete zu veranlassen oder nöthigenfalls an das Ministerium die Anzeige zu erstatten haben wird.

3. In Betreff der Pfarr-Concursprüfungen.

Sobald dem Statthalter (Landeschef) von den Bischöfen des Kronlandes die Mittheilung gemacht worden seyn wird, daß von ihnen die Examinatoren für die Pfarr-Concursprüfung aufgestellt und die nöthigen Einleitungen zum Vollzuge der Beschlüsse der bischöflichen Versammlung getroffen wurden, haben die politischen Behörden auf diese Angelegenheit keinen weiteren Einfluß mehr zu nehmen.

Nur wenn hervorkommen sollte, daß ein von den Beschlüssen der bischöflichen Versammlung abweichendes Verfahren von der geistlichen Behörde beobachtet werde, hätte sich der Statthalter (Landeschef) mit Rücksicht auf den in der obenangeführten Allerhöchsten Entschließung vom 18. April l. J. ausgedrückten Vorbehalt mit dem Bischofe ins Einvernehmen zu setzen oder an das Ministerium des Cultus und Unterrichts zu berichten.

Thun m. p.

(Translation.)

Ordinance of the Minister of Public Worship and Instruction of the 15th July, 1850, in force for all those Crown lands to which the Imperial Patent of the 4th March, 1849, is applicable, in relation to penal and correctional official proceedings against Catholic clerical persons, and to the separate competency of the authorities of Government in matters relating to Catholic worship and to examination for the ministry.

BY the Imperial Ordinance of the 18th of April of last year (Imperial Act, Article L, p. 156), general provisions are made as to the position which the Catholic Church will assume on the basis of the Imperial Patent of the 4th March, 1849, § 2, in the Crown lands for which that Imperial Patent was issued.

His Majesty, at the same time, with reference to the resolutions of the Assembled Bishops of those lands, which was held in the year preceding at Vienna, was pleased to order—

“ 1. That if a Catholic clergyman shall abuse his position and the privileges which appertain to him for ecclesiastical purposes therein for other objects, so that his removal from his office is admitted to be necessary, the authorities shall forthwith put themselves in communication with his ecclesiastical superiors upon this matter.

“ 2. That it shall be permitted to every bishop to order and direct the public worship in his diocese in the sense of the resolutions taken in the Assembled Bishops.”

In these resolutions the bishops considered it to be their duty to maintain carefully everything which is suitable to the existing order of divine service, and beneficial, and to make no alteration without the assent of the Provincial Synod. They have declared that in the altered state of legislation they feel themselves

doubly called upon to oppose with indefatigable activity, every arbitrary innovation, and every abuse which might creep into the public worship.

"3. That in reference to examinations for the ministry, no obstacle shall be opposed to the complete execution of the resolutions made thereupon by the Assembled Bishops, under the proviso that they shall not be altered without consultation with the Government, but that whenever, and so far as those resolutions be not taken as the rule, the examinations shall be conducted according to the regulations hitherto in force."

The following are the resolutions made by the Assembled Bishops in reference to examinations for the ministry :

"The examination for the ministry shall take place once a-year at least in every diocese, and shall be conducted both orally and in writing.

"The objects of this examination are :

"1. Dogmatic theology.

"2. Explanations of the Scripture according to the Vulgate.

"3. Morals, and pastoral and liturgic theology, with a predominant practical tendency.

"4. Ecclesiastical law.

"5. The plan of a sermon as a whole, and the elaboration of the same in its several divisions.

"6. Oral delivery.

"7. Catechising.

"For the attainment of every office importing an independent cure of souls, it is required that the candidate shall have passed the examination for the ministry with approbation.

"How far an examination is necessary for canonries with which the cure of souls is connected, but no independent office importing a cure of souls, is left to the judgment of the diocesan.

"Those only shall be admitted to an examination for the ministry who shall have obtained for three years at least the authority to hold a cure.

"The examination shall regularly be available for six years ; but a shorter or longer interval may be determined by a provincial council. None but acting or past professors of theology, those doctors of theology who have undergone severe examinations for the attainment of the dignity, and such persons as have distinguished themselves as writers in some department of theology, can be exempted from an examination.

"The bishop may also exempt from a repetition of the same, such persons as shall have sufficiently evidenced their theological acquirements, either as pastors or in any other way. No bishop is bound to recognize the examination which a candidate shall have undergone in another diocese as sufficient for a benefice in his district."

For the execution of these Imperial resolutions it is ordained as follows :

1. *Concerning Penal and Correctional Procedure against Catholic Clergy.*

Whereas by §§ 3 and 4 of the Imperial Ordinance of the 18th April of last year, the independent exercise of ecclesiastical penal power is permitted to the bishops, the procedure directed by the Decree of the Court Chancery of the 3rd March, 1792, according to which correctional investigation against the Catholic clergy must be instituted by means of a mixed commission of spiritual and secular officers, shall cease.

The secular authorities on their side will also proceed independently within their legal province, and the following determination will serve for their guidance therein :

a. If a Catholic clergyman is charged with a crime, or with an offence coming within judicial procedure, the matter is to be brought before the competent judicial authorities, and the political authorities will not take any steps therein, except so far as they are directed by legal precepts, chiefly in aid of the judicial authorities.

b. If complaints of any kind are made against a Catholic clergyman, in respect to the fulfilment of his spiritual duties, or his conduct in a spiritual capacity, the political authorities, as a general rule, shall not proceed against him officially, but shall refer the same to the ecclesiastical superiors. But if no redress be granted by the latter, and ground should exist for an apprehension

that danger may arise therefrom to the public peace and order, or should the demeanour of a clergyman immediately threaten danger to the public peace and order, notice shall be given of the same to the local Governor (Landeschef), whose duty it shall be to put himself in communication with the bishop with respect to the necessary steps to be taken, and to determine whether the political authorities shall with this object proceed to inquire into the facts of the case.

Without instructions from the local Governor, inquiry shall not be made into the facts, unless there shall be danger in delay, and in such cases the notice is at the same time to be given to the Governor.

The duty incumbent on the political authorities of superintending the execution of the existing legal precepts in relation to the management of matriculations and of the concerns of schools and of the poor, is not altered by these Resolutions.

2. Concerning Public Worship.

In matters relating to public worship the political authorities shall not interfere to make any regulations, but they shall only take care that it shall be carried on everywhere in conformity with the above resolutions of the Assembled Bishops; and if, contrary to expectation, any departure therefrom should take place, they shall give notice of the same to the local Governor, who will agree with the bishop thereupon, and will suggest what is proper, or in case of necessity report the same to the Ministry.

3. Concerning Examinations for the Ministry.

So soon as communication shall have been made by the bishops of the Crown lands to the local Governor (Landeschef), that examiners have been appointed by them for the examinations, and that the necessary preparations have been made for carrying into effect the resolutions of the Assembled Bishops, the political authorities shall have no further interest in this matter.

But if it should happen that the spiritual authorities should be observed to follow a procedure departing from the resolutions of the Assembled Bishops, the local Governor shall, with reference to the reservation made in the above-mentioned Imperial Resolution of the 18th April of last year, put himself in communication with the bishop, or report to the Minister of Public Worship and Instruction.

The first of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The second of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The third of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The fourth of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The fifth of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The sixth of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The seventh of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The eighth of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

The ninth of these is the fact that the Government has not yet decided whether it will accept the offer of the United States to purchase the Alaska Territory. This is a very important question, and one which will have a great influence on the future of the Territory. It is also a question which will have a great influence on the future of the United States.

BAVARIA.

No. 3.

Mr. Bonar to Viscount Palmerston.—(Received December 28.)

My Lord,

Munich, December 21, 1850.

IN compliance with the desire conveyed to me in your Lordship's despatch of the 12th instant, I have now the honour to inclose to your Lordship a copy and translation of a note which I received yesterday from M. von der Pfordten, transmitting to me a copy of the existing Concordat between the Bavarian Government and the Court of Rome. This Treaty, concluded in June 1817, is still in vigour and unaltered, and regulates to this day the Roman Catholic Church in this kingdom. By Article IX of the above Concordat, it is stipulated that the right shall lie with His Bavarian Majesty, to nominate archbishops and bishops to the vacant provinces and sees in Bavaria; such nominations, however, to be followed by canonical installation by the Pope.

By his Excellency's note, your Lordship will also see that no Papal bulls or rescripts (nor ordinances whatsoever) issuing from Rome may be published and promulgated in Bavaria without the previous knowledge and concurrence of the Government, and such sanction can only be obtained by the channel of the Minister of State for the Interior, by whom the proposed ordinances must be submitted to His Bavarian Majesty, accompanied by a special report thereon.

I have, &c.
(Signed) A. G. BONAR.

P.S.—I have not ventured to detain this despatch until a translation could be made of the whole Concordat, in consequence of your Lordship's orders to forward it with the least possible delay, and because also I find that the whole Treaty is given in the original Latin, accompanied by a French translation, in "De Martens' Nouveau Recueil de Traités," vol. iii. page 106.

(Signed) A. G. B.

Inclosure 1 in No. 3.

M. de Pfordten to Mr. Bonar.

(Translation.)

Munich, December 19, 1850.

THE Undersigned has had the honour to receive the note addressed to him under date of the 18th instant, by Mr. A. Bonar, &c., and hastens to reply to it by transmitting to him inclosed a copy of the Concordat concluded between Bavaria and the Pontifical Government in the year 1817, which still exists in full integrity. The annual incomes of the two archbishops and the six bishops holding sees in this kingdom are stated in Article IV of the inclosed Convention.

The publication of Papal bulls and ordinances is regulated by the provisions of the Bavarian Constitution, contained in the "Religion Edict," part iii. par. 58 and 59, which say:—

“§ 58. In conformity to the general mandates hitherto existing in the royal dominions, no laws, ordinances, nor other regulations issued by the Church, shall be promulgated and carried into effect without the sovereign concurrence and sanction. The clerical authorities are bound, after receiving the royal sanction for the promulgation (*placet*), to state the same expressly on all occasions, at the outset of the publication of the ordinances issued by them.

“§ 59. Public notices issued by the Clerical Government which refer solely to the priesthood under its authority, and which emanate from approved and universal regulations, require no renewed sanction. This *Placetum regium* is accorded by the King.”

A fresh consideration of the above ordination took place in 1824 (27th June), and the royal decision resulting from it prescribes the following:—

“1. The pastoral briefs which the bishops may think proper to address to their clergy on taking possession of their sees, are also to be considered among the episcopal publications alluded to in § 59.

“2. Among the clerical laws and regulations referred to in § 58, are also to be included the fasting patents (episcopal proclamations to the parochial communities for the maintenance of the regulations instituted by the Church for the observance of fasts).

“3. The mention of the royal *placet* shall be made in the fullest and most express manner.

“4. Some copies of the pastoral briefs shall on all occasions be communicated to the Governments of the respective circles.”

The channel through which the sovereign sanction is applied for is as follows:—The episcopal ordinaries communicate with the Regimius of the eight circles of the kingdom, who forward the episcopal “Publicanda” to the Ministry of State for the Interior, from whence they are submitted with a report to the King. Of late, the bishops have taken steps to be relieved of the condition which requires the royal sanction to their proclamations that come within § 58, and have also applied for a revision of the Constitution in many other points connected with the Church. But up to this day the regulations stated in this note have remained in full vigour.

The Undersigned, &c.

(Signed)

V. d. PFORDTEN.

Inclosure 2 in No. 3.

Concordat between Bavaria and the Court of Rome, of June 5, 1817.

Maximilianus Josephus, Dei gratia Bavariae Rex, notum facimus tenore praesentium universis.

CUM sollemnis per Cardinalem Consalvi Secretarium Status Sanctitatis Suae et Ministrum Plenipotentiarium nostrum liberum Baronem de Haefelin, Episcopum Chersonesi de iis, quae ad res ecclesiasticas in regno nostro pertinent, die quinta mensis Junii Conventio conclusa est, cujus tenor est, uti sequitur:

Conventio inter Sanctissimum Dominum Pium VII. Summum Pontificem et Majestatem Suam Maximilianum Josephum, Bavariae Regem.

In Nomine Sanctissimae Trinitatis.

Sanctitas Sua Summus Pontifex Pius VII et Majestas Sua Maximilianus Josephus, Bavariae Rex debita sollicitudine cupientes, ut in iis, quae ad res Ecclesiasticas pertinent, certus stabilisque in Bavariae Regno terrisque ei subjectis constituatur ordo, solemnen propterea Conventionem inire decreverunt.

Hinc Sanctitas Sua Summus Pontifex Pius VII in suum Plenipotentiarium nominavit Eminentissimum Dominum Herculem Consalvi, Sanctae Romanae Ecclesiae Cardinalem Diaconum Sanctae Agathae ad Suburram, Suum a Secretis Status;

Et Majestas Sua Maximilianus Josephus, Bavariae Rex, Excellentissimum Dominum Baronem Casimirum de Haeffelin, Episcopum Chersonesi, Suum Ministrum Plenipotentiarium apud Sanctam Sedem.

Qui post sibi mutuo tradita respectivae Plenipotentiae Instrumenta in sequentes Articulos convenerunt.

Articulus I. Religio Catholica Apostolica Romana in toto Bavariae Regno terrisque ei subjectis sarta tecta conservabitur cum iis juribus, et praerogativis, quibus frui debet ex Dei ordinatione, et canonicis sanctionibus.

Art. II. Sanctitas Sua, servatis servandis, Bavariae Regni Dioeceses sequenti ratione constituet:

Sedem Frisingae Monachium transferet, eamque eriget in Metropolitanam, quae pro Dioecesi sua habebit territorium actuale Frisingensis Dioecesis; ejus tamen Ecclesiae Antistes, ejusque successores Archiepiscopi Monachii et Frisingae nuncupandi erunt.

Eidem Antistiti Episcopales Ecclesias Augustanem, Passaviensem, et Ratisbonensem praevia Metropolitanae qualitatis suppressione, in Suffraganeas assignabit. Antistes tamen Passaviensis Ecclesiae actu vivens exemptionis privilegio, quoad vixerit, gaudebit.

Bambergensem Cathedrali Ecclesiam in Metropolitanam eriget, illique in Suffraganeas assignabit Ecclesias Episcopales Herbipolensem, Eichstettensem et Spirensensem.

Territorium Aschaffenburgense olim ad Moguntinam nunc ad Ratisbonensem Dioecesim pertinens, et partem Bavaricum Fuldensis Dioecesis Herbipolensi Dioecesi adjunget.

Partem autem Bavaricam Constantiensis Dioecesis cum exempto territorio Campidunensi Augustanae Dioecesi uniet.

Simili Modo partem Bavaricam Dioecesis Salisburgensis et territorium exemptae Praepositurae Berchtolgadensis partim Passaviensi, partim Monacensi Dioecesi uniet, cui quidem Dioecesi, praevia suppressione Sedis Chiemensis, hujus quoque Ecclesiae Dioecesim assignabit.

Novi singularum Dioecesium fines, in quantum necesse crit, designabuntur.

Art. III. Capitula Metropolitanarum Ecclesiarum habebunt duas Dignitates, nempe Praepositum, ac Decanum, et decem Canonicos: Capitula vero Cathedralium Ecclesiarum habebunt pariter duas Dignitates, scilicet Praepositum, ac Decanum, et octo Canonicos. Quodlibet praeterea Capitulum tam Metropolitanum, quam Cathedrale habebit Praebendatos seu Vicarios saltem sex. Si vero in posterum Ecclesiarum istarum redditus per novas fundationes aut honorum augmentationes incrementum tale perceperint, ut plures Praebendae erigi possint, Canonicorum, et Vicariorum numerus ultra augebitur.

In quovis Capitulo Archiepiscopi et Episcopi ad formam Sacri Concilii Tridentini duos ex Canonicis designabunt, qui partes Theologi, et partes Poenitentiarum respective agent.

Dignitates et Canonici omnes, praeter Chori servitium, Archiepiscopis, et Episcopis in administrandis Dioecesibus suis a consiliis servient. Archiepiscopis tamen et Episcopis plane liberum erit ad specialia munera et negotia officii sui illos pro beneplacito applicare. Simili modo Vicariorum officia Archiepiscopi et Episcopi assignabunt.

Majestas tamen Regia iis qui officio Vicarii Generalis fungentur quingentos florenos annuos, iis vero, qui Secretarii Episcopalis partes agent, biscentos florenos assignabit.

Art. IV. Redditus Mensarum Archiepiscopalium et Episcopalium in bonis fundisque stabilibus liberae Archiepiscoporum et Episcoporum administrationi tradendis constituentur.

Simili bonorum genere et administrationis jure gaudebunt Capitula Metropolitanarum, et Cathedralium Ecclesiarum, et Vicarii seu Praebendati praedictarum Ecclesiarum servitio addicti.

Quantitas reddituum annuorum, deductis oneribus, erit ut sequitur:

Diocesis Monacensis.

	Florenorum.
Pro Archiepiscopo	20,000
Pro Praeposito	4,000
Pro Decano	4,000
Pro quolibet e quinque Canonicis, senioribus ...	2,000
Pro quolibet e quinque Canonicis, junioribus ...	1,600
Pro quolibet e tribus Vicariis, senioribus ...	800
Pro quolibet e tribus Vicariis, junioribus ...	600

Diocesis Bambergensis.

Pro Archiepiscopo... ..	15,000
Pro Praeposito	3,500
Pro Decano	3,500
Pro quolibet e quinque Canonicis, senioribus ...	1,800
Pro quolibet e quinque Canonicis, junioribus ...	1,400
Pro quolibet e tribus Vicariis, senioribus ...	800
Pro quolibet e tribus Vicariis, junioribus ...	600

Dioceses Augustana, Ratisbonensis, et Herbipolensis.

Pro quolibet Episcopo	10,000
Pro quolibet Praeposito	3,000
Pro quolibet Decano	3,000
Pro quolibet e quatuor Canonicis, senioribus ...	1,600
Pro quolibet e quatuor Canonicis, junioribus ...	1,400
Pro quolibet e tribus Vicariis, senioribus ...	800
Pro quolibet e tribus Vicariis, junioribus ...	600

Dioceses Passaviensis, Eichstettensis, et Spirensis.

Pro quolibet Episcopo	8,000
Pro quolibet Praeposito	2,500
Pro quolibet Decano	2,500
Pro quolibet e quatuor Canonicis, senioribus ...	1,600
Pro quolibet e quatuor Canonicis, junioribus ...	1,400
Pro quolibet e tribus Vicariis, senioribus ...	800
Pro quolibet e tribus Vicariis, junioribus ...	600

Quorum omnium reddituum summae salvae semper et integrae conservandae erunt, et bona fundique, ex quibus provenient, nec distrahi, nec in pensiones mutari poterunt. Tempore autem vacationis Archiepiscopali et Episcopali Sedium, Dignitatum, Canonicatum, Praebendarum seu Vicariatuum, praedictae reddituum summae in utilitatem respectivaram Ecclesiarum percipiendae et conservandae erunt.

Habitatio insuper tam Archiepiscopis et Episcopis, quam Dignitatibus, Canonicis senioribus, et Vicariis pariter senioribus, illorum dignitati et statui respondens assignabitur.

Pro Curia Archiepiscopali et Episcopali, pro Capitulo et Archivio Majestas Sua domum aptam assignabit.

Ad negotium hujusmodi reddituum, fundorum, et bonorum assignationis intra trimestre post ratificationem praesentis Conventionis, si fieri poterit, vel ad summum intra semestre perficiendum utraque Contrahentium pars Commissarios nominabit, ac de formali praedictae assignationis actu tria exemplaria in authentica forma expediri jubebit. Regia Majestas unum pro Archivio Regio, alterum pro Nuntio Apostolico, tertium denique pro Archivio singularum Ecclesiarum.

Alia Beneficia, ubi extant, conservabuntur.

Quod pertinet ad Dioecesim Spirensis, quoniam ob speciales circumstantias ei nunc fundi ac bona stabilia assignari non possunt, interea

usque dum haec assignatio fieri valeat, providebitur a Majestate Sua per assignationem praestationis annuatim solvendae in summa :

						Florenorum.
Pro Episcopo	...	...	...	...	...	6,000
Pro Praeposito	...	...	...	...	...	1,500
Pro Decano	...	...	...	...	...	1,500
Por quovis ex octo Canonicis	...	...	...	...	...	1,000
Pro quovis e sex Vicariis...	...	...	...	...	...	600

Fabricarum denique ipsarumque Ecclesiarum fundi, redditus, bona mobilia et immobilia conservabuntur, et nisi pro Ecclesiarum manutenzione, pro divini cultus expensis, et inservientium necessariorum salariis sufficiant, Sua Majestas supplebit.

Art. V. Sua singulis Dioecesibus Seminaria Episcopalia conserventur, et dotatione congrua in bonis fundisque stabilibus provideantur; in iis autem Dioecesibus in quibus desunt, sine mora cum eadem pariter dotatione in bonis fundisque stabilibus fundentur.

In Seminariis autem admittentur atque ad normam Sacri Concilii Tridentini efformabuntur atque instituentur adolescentes, quos Archiepiscopi et Episcopi pro necessitate vel utilitate Diocesium in iis recipiendos judicaverint. Horum Seminariorum ordinatio, doctrina, gubernatio, et administratio Archiepiscoporum et Episcoporum auctoritati pleno liberoque jure subjectae erunt juxta formas Canonicas.

Rectores quoque et Professores Seminariorum ab Archiepiscopis et Episcopis nominabuntur, et quotiescunque necessarium aut utile ab ipsis judicabitur, removebuntur.

Cum Episcopis incumbat Fidei ac morum doctrinae invigilare, in hujus officii exercitio etiam circa Scholas publicas nullo modo impedientur.

Art. VI. Majestas Sua Regia, collatis cum Archiepiscopis et Episcopis consiliis, assignabit pariter cum sufficienti dote domum, in qua infirmi ac senes Clerici benemeriti solamen et asylum reperiant.

Art. VII. Insuper Majestas Sua considerans, quot utilitates Ecclesia atque ipse Status a Religiosis Ordinibus perceperint, ac percipere in posterum possint, et ut promptam suam erga Sanctam Sedem voluntatem probet, aliqua Monasticorum Ordinum utriusque Sexus Coenobia ad instituendam in Religione et Litteris juventutem, et in Parochorum subsidium, aut pro cura infirmorum, inito cum Sancta Sede consilio, cum convenienti dotatione instaurari curabit.

Art. VIII. Bona Seminariorum, Parochiarum, Beneficiorum, omniumque aliarum Ecclesiasticarum foundationum semper et integre conservanda erunt, nec distrahi, nec in pensiones mutari poterunt.

Ecclesia insuper jus habebit, novas acquirendi possessiones, et quidquid de novo adquisierit, faciet suum, et censebitur eodem jure ac veteres foundationes Ecclesiasticae, quarum, uti et illarum, quae in posterum fient, nulla vel suppressio vel unio fieri poterit absque Sedis Apostolicae auctoritatis interventu, salvo facultatibus a Sacro Concilio Tridentino Episcopis tributis.

Art. IX. Sanctitas Sua, attenta utilitate, quae ex hac Conventione manat in ea, quae ad res Ecclesiae et Religionis pertinent, Majestati Regis Maximiliani Josephi, ejusque Successoribus Catholicis per Litteras Apostolicas statim post ratificationem praesentis Conventionis expediendas in perpetuum concedet Indultum nominandi ad vacantes Archiepiscopales et Episcopales Ecclesias Regni Bavarici dignos et idoneos Ecclesiasticos Viros iis dotibus praeditos, quas Sacri Canones requirunt. Talibus autem Viris Sanctitas Sua Canonicam dabit Institutionem juxta formas consuetas. Priusquam vero eam obtinuerint, regimini seu administrationi Ecclesiarum respectivarum, ad quas designati sunt, nullo modo sese immiscere poterunt. Annatarum vero et Cancellariae taxae proportionabiliter ad unius cujusque Mensae annuos redditus de novo statuentur.

Art. X. Praeposituras tam in Metropolitanis quam in Cathedralibus Ecclesiis conferet Sanctitas Sua; ad Decanatus nominabit Regia Majestas, quae etiam ad Canonicatus in sex mensibus Apostolicis sive Papalibus nominabit. Quoad alios autem sex menses, in eorum tribus Archiepiscopus et Episcopus, in reliquis vero tribus Capitulum nominabit.

In Capitula Ecclesiarum tam Metropolitanarum quam Cathedralium in posterum alii non admittentur, quam indigeni qui praeter qualitates a Sacro Concilio Tridentino requisitas, in animarum cura, et sacris Ministeriis cum laude versati sint, aut Archiepiscopo vel Episcopo in administranda Dioecesi adjutricem operam praestiterint, vel virtutis ac scientiae meritis conspicuos sese reddiderint. Vicariatus vero in iisdem Metropolitanis et Cathedralibus Ecclesiis libere ab Archiepiscopo vel Episcopo conferentur.

Pro hac vice tamen, quoniam Capitulis nondum constitutis, omnia ea, quae hoc articulo statuta sunt, servari non possunt, Nuntius Apostolicus, collatis cum Majestate Sua consiliis et auditis interesse habentibus, nova Capitula constituet. Idem circa Vicarios seu Praebendatos observabitur.

Dignitates, Canonici, et Beneficiati omnes residentiales uti a pluralitate Beneficiorum et Praebendarum juxta Sacros Canones prohibentur, ita ad residentiam secundum eorum Canonum rigorem, salva semper Sedis Apostolicae auctoritate, adstringuntur.

Art. XI. Rex Bavariae ad ea Beneficia tam Parochialia, quam Curata ac Simplicia praesentabit, ad quae ex legitimo jure patronatus sive per dotationem, sive per fundationem, sive per constructionem acquisito ejus antecessores Duces et Electores praesentabant.

Praeterea Majestas Sua praesentabit ad ea Beneficia, ad quae Corporationes Ecclesiasticae actu non existentes praesentabant.

Subditi Majestatis Suae, qui jure patronatus legitime, ut supra, gaudent, ad Beneficia respectiva tam Parochialia, quam Curata, ac Simplicia hujusmodi juri patronatus subjecta praesentabunt.

Archiepiscopi vero et Episcopi praesentatis debita requisita habentibus, praemisso circa doctrinam et mores examine ab ipsis Ordinariis instituendo, si de Parochialibus aut de Curatis Beneficiis agatur, Canonicam dabunt Institutionem.

Praesentatio autem ad omnia ista Beneficia intra tempus a Canonibus praescriptum fiet, secus ea libere ab Archiepiscopis et Episcopis conferentur.

Reliqua vero Beneficia omnia tam Parochialia, quam Curata, ac Simplicia, quae antecessores Antistites octo Ecclesiarum Regni Bavariae conferebant, libere ab Archiepiscopis et Episcopis personis Majestati Suae gratis conferentur.

Art. XII. Pro regimine Diocesium Archiepiscopis et Episcopis id omne exercere liberum erit, quod in vim pastoralis eorum ministerii sive ex declaratione, sive ex dispositione Sacrorum Canonum secundum praesentem et a Sancta Sede adprobatam Ecclesiae disciplinam competit, ac praesertim:

a. Vicarios, Consiliarios, et Adjutores administrationis suae constituere Ecclesiasticos quoscumque quos ad praedicta officia idoneos judicaverint;

b. Ad statum Clericalem assumere, et approbatis a Sacris Canonibus titulis ad Ordines etiam majores, praevio examine ab ipsis Archiepiscopis et Episcopis aut eorum Vicariis cum Examinatoribus Synodalibus instituendo, promovere, quos necessarios aut utiles suis Dioecesibus judicaverint, et e contrario, quos indignos censuerint, a susceptione Ordinum arcere, quin ab ullo quovis obtentu impediri queant;

c. Causas Ecclesiasticas atque in primis causas Matrimoniales, quae juxta Canonem 12. sess. 24. Sacri Concilii Tridentini ad Judices Ecclesiasticos spectant, in Foro eorum cognoscere, ac de iis sententiam ferre, exceptis causis mere civilibus Clericorum, exempli gratia, contractuum, debitorum, haereditatum, quas Laici Judices cognoscent et definient;

d. In Clericos reprehensione dignos aut honestum Clericalem habitum eorum Ordini, et dignitati congruentem non deferentes, poenas a Sacro

Concilio Tridentino statutas, aliasque quas convenientes judicaverint, salvo Canonico recurso, infligere, eosque in Seminariis aut domibus ad id destinandis custodire: censuris quoque animadvertere in quoscumque fideles Ecclesiasticarum Legum et Sacrorum Canonum transgressores;

e. Cum Clero et Populo Dioecesano pro munere officii Pastoralis communicare, suasque Instructiones, et ordinationes de rebus Ecclesiasticis libere publicare; praeterea Episcoporum, Cleri et Populi communicatio cum Sancta Sede in rebus spiritualibus et negotiis Ecclesiasticis prorsus libera erit;

f. Collatis cum Regia Majestate, praesertim pro convenienti reddituum assignatione, consiliis, Parochias erigere, dividere vel unire;

g. Praescribere vel indicare preces publicas, aliaque pia opera, cum id bonum Ecclesiae, vel Status, aut Populi postulet, et invigilare, ut in Ecclesiasticis functionibus, praesertim autem in Missa et in Administratione Sacramentorum Ecclesiae formulae in lingua Latina usurpentur.

Art. XIII. Quoties Archiepiscopi, et Episcopi libros aut in Regno impressos, aut in illud introductos Gubernio indicabunt, qui aliquid fidei, bonis moribus, aut Ecclesiae disciplinae contrarium contineant, Gubernium curabit ut eorum divulgatio debito modo impediatur.

Art. XIV. Majestas Sua prohibebit, ne Catholica Religio, ejusque ritus vel Liturgia sive verbis, sive factis, sive scriptis contemnatur, aut Ecclesiarum Antistites vel ministri in exercendo munere suo, pro custodienda praesertim fidei ac morum doctrina, et disciplina Ecclesiae impediantur. Desiderans praeterea ut debitus, juxta divina mandata, sacris ministris honor servetur, non patietur quidquam fieri, quod dedecus ipsis afferre, aut eos in contemptum adducere possit, immo vero jubebit, ut in quacumque occasione ab omnibus Regni Magistratibus peculiari reverentia atque honore eorum dignitati debito cum ipsis agatur.

Art. XV. Archiepiscopi et Episcopi coram Regia Majestate juramentum fidelitatis emittent sequentibus verbis expressum:

“Ego juro et promitto ad Sancta Dei Evangelia obedientiam, et fidelitatem Regiae Majestati; idem promitto, me nullam communicationem habiturum, nullique consilio interfuturum, nullamque suspectam unionem neque inter neque extra conservaturum, quae tranquillitate publicae noceat, et si tam in Dioecesi mea quam alibi noverim aliquid in Status damnum tractari, Majestati Suae manifestabo.”

Art. XVI. Per praesentem Conventionem Leges, Ordinationes et Decreta in Bavaria huc usque lata, in quantum illi adversantur, abrogata habebuntur.

Art. XVII. Cetera, quae ad res et personas Ecclesiasticas spectant, quorum nulla in his Articulis expressa facta est mentio, dirigentur omnia et administrabuntur juxta doctrinam Ecclesiae, ejusque vigentem et approbatam disciplinam. Si vero in posterum supervenerit difficultas, Sanctitas Sua, et Regia Majestas secum conferre et rem amice componere sibi reservant.

Art. XVIII. Utraque Contrahentium pars spondet Se, successoresque Suos omnia, de quibus in his Articulis utrinque conventum est, sancte servaturos, et a Majestate Regia praesens Conventio Lex Status declarabitur.

Praeterea Majestas Sua Regia spondet, nihil unquam Se, Successoresque Suos, quavis de causa, Articulis hujus Conventionis addituros, neque in iis quidquam immutatuos, vel eosdem declaratuos esse absque Sedis Apostolicae auctoritate et cooperatione.

Art. XIX. Ratificationum hujus Conventionis traditio fiet intra quadraginta dies ab ejusdem data, aut citius, si fieri poterit.

Datum Romae die 5 Junii, anni 1817.

HERCULES CARDINALIS
CONSALVI.

CASIMIRUS HAFFELIN,
Episcopus Chersonensis.

Nos praefatam Conventionem cum omnibus suis Articulis acceptamus, ratihabemus et confirmamus, simulque firmiter promittimus, Nos omnia, de quibus ita conventum est, sancte servaturos, atque curam habituros, ut ab omnibus subditis Nostriis stricte observentur.

In quorum fidem praesentes hasce litteras propria manu subscripsimus et Sigillo regio Nostro muniri jussimus.

Dabantur Monachii in Palatio Nostro Regio die vigesima quarta Octobris anno Domini millesimo octingentesimo decimo septimo, regni autem Nostri duodecimo.

(L.S) MAXIMILIANUS JOSEPHUS.

(Translation.)

WE, Maximilian Joseph, by the grace of God, King of Bavaria, by the tenor of these presents make known, &c.

Whereas a solemn Convention was concluded by the Cardinal Consalvi, Secretary of State to His Holiness, and our Minister Plenipotentiary, the Baron von Häffelin, Bishop of the Chersonese, on the fifth day of June, concerning ecclesiastical affairs in our kingdom, the tenor of which is as follows :

Convention between His Holiness the Supreme Pontiff, Pius VII, and His Majesty Maximilian Joseph, King of Bavaria.

In the name of the Most Holy Trinity.

His Holiness the Supreme Pontiff, Pius VII, and His Majesty Maximilian Joseph, King of Bavaria, desiring with due solicitude that a sure and certain rule should be established in the Kingdom of Bavaria and the territories subject to it, with regard to ecclesiastical affairs, have therefore decided to enter into a solemn Convention.

Wherefore His Holiness the Supreme Pontiff Pius VII, has nominated his Eminence Hereules Consalvi, Cardinal Deacon of the Holy Roman Church, Deacon of Saint Agatha ad Suburram, and Secretary of State, as his Plenipotentiary ;

And His Majesty Maximilian Joseph, King of Bavaria, has appointed his Excellency Baron Casimir von Häffelin, Bishop of the Chersonese, his Minister Plenipotentiary to the Holy See ;

Who after having delivered to each other their respective credentials, agreed upon the following Articles :

Article I. The Roman Catholic Apostolic Religion shall be effectually maintained throughout the Kingdom of Bavaria and the territories subject to it, with those rights and prerogatives to which it is entitled by the ordinance of God and the canonical sanction.

II. His Holiness, *servatis servandis*, will constitute the dioceses of the Kingdom of Bavaria in the following manner :

He will transfer the See of Freysing to Munich, and raise it to a Metropolitan, which shall have for its diocese the present territory of the diocese of Freysing ; and the prelate of that church and his successors are to be styled Archbishops of Munich and of Freysing.

And he will assign to the same prelate as suffragans, the episcopal churches of Augsburg, Passau, and Ratisbon, having previously suppressed their metropolitan quality. But the actual prelate of the church of Passau shall enjoy the privilege of exemption during his life.

He will raise the cathedral church of Bamberg to a metropolitan, and will assign to it as suffragans, the episcopal churches of Wurtzburg, Eichstett, and Spire.

He will unite the territory of Aschaffenburg, formerly belonging to the diocese of Mentz, but now to that of Ratisbon, and the Bavarian portion of the diocese of Fulda, with the dioceses of Wurtzburg.

He will add the Bavarian part of the diocese of Constance with the exempt territory of Kempten, to the diocese of Augsburg.

In like manner he will add the Bavarian part of the diocese of Salzburg and the territory of the exempt provostship of Berchtesgaden, partly to the diocese of Passau, partly to that of Munich, to which latter diocese, having previously suppressed the see of Chiem, he will assign the diocese also of that church.

The new boundaries of each diocese will be marked out as far as may be necessary.

III. The chapters of the metropolitan churches shall have two dignitaries, namely, the provost, the dean, and ten canons.

The chapters of cathedral churches shall also have two dignitaries, namely, the provost and the dean, and eight canons. Every chapter, both metropolitan and cathedral, shall have besides at least six prebendaries or vicars. But if hereafter the revenues of these churches should receive such an increase, by new foundations or additional contributions, that more prebends can be created, the number of canons and vicars shall be further augmented.

In every chapter the archbishops and bishops shall appoint, according to the rule of the Holy Council of Trent, two of the canons, who shall respectively administer Divine service and confession.

The dignitaries and all the canons in addition to the service of the choir, shall assist the archbishops and bishops in the administration of their dioceses. But the archbishops and bishops shall be at liberty to appoint them to special functions and offices, during their pleasure. In like manner, the archbishops and bishops shall assign the duties of the vicars.

And His Majesty will assign to those who fill the office of Vicar-General, 500 florins per annum, and to those who perform the duties of Episcopal Secretary, 200 florins.

IV. The revenues of the archiepiscopal and episcopal appointments (Mensae) shall be invested in property and estates to be delivered to the free administration of the archbishops and bishops.

The chapters of metropolitan and cathedral churches and the vicars or prebendaries appointed to the service of the said churches, shall enjoy the same kind of property and right of administration.

The net amount of yearly revenues shall be as follows.

Diocese of Munich.

	Florins.
Archbishop	20,000
Provost	4,000
Dean	4,000
Five Senior Canons, each	2,000
Five Junior Canons, each	1,600
Three Senior Vicars, each	800
Three Junior Vicars, each	600

Diocese of Bamberg.

	Florins.
Archbishop	15,000
Provost	3,500
Dean	3,500
Five Senior Canons, each	1,800
Five Junior Canons, each	1,400
Three Senior Vicars, each	800
Three Junior Vicars, each	600

Dioceses of Augsburg, Ratisbon, and Wurtzburg.

	Florins.
Bishop	10,000
Provost	3,000
Dean	3,000
Four Senior Canons, each	1,600
Four Junior Canons, each	1,400
Three Senior Vicars, each	800
Three Junior Vicars, each	600

Dioceses of Passau, Eichstett, and Spires.

	Florins.
Bishop	8,000
Provost	2,500
Dean	2,500
Four Senior Canons, each	1,600
Four Junior Canons, each	1,400
Three Senior Vicars, each	800
Three Junior Vicars, each	600

The amounts of all the said revenues shall be maintained undiminished, and the property and estates from which they proceed shall neither be diverted nor changed into pensions. But during the vacancy of the archiepiscopal and episcopal sees, dignities, canonicates, prebends, or vicarages, the amount of the aforesaid revenues shall be received and retained for the benefit of the respective churches.

Moreover, a residence suitable to their dignity and condition shall be assigned to the archbishops and bishops, the dignitaries, the senior canons, and the senior vicars.

His Majesty will assign a building fit for the archiepiscopal and episcopal court for the chapter and the archives.

For this assignment of the revenues, estates, and property, each of the Contracting Parties will nominate Commissioners within three months from the ratification of the present Convention if practicable, but at the utmost within six months, and will order to be prepared in an authentic shape three copies of the formal act of the aforesaid assignment. His Majesty to have one for the Royal archives, the Apostolic Nuncio a second, and the archives of each church a third.

Other benefices, where they exist, shall be preserved.

As regards the diocese of Spires, since, from special circumstances, estates and fixed property cannot be assigned to it, His Majesty will, until it may be possible to make this assignment, provide for the same by assignment of a yearly payment:

	Florins.
Bishop	6,000
Superior	1,500
Dean	1,500
Eight Canons, each	1,000
Six Vicars, each	600

Finally, the estates of the Church establishments (*fabricæ*) and of the churches themselves, the revenues and moveable and immoveable property shall be preserved, and should they not suffice for the maintenance of the churches, for the expenses of Divine service, and for the salaries of the necessary officials, His Majesty will supply the deficiency.

V. The episcopal seminaries in each diocese shall be upheld and be provided with an appropriate endowment in property and land; and in those

dioceses where they do not exist, they shall be founded without delay with a like endowment in property and land.

Such youths shall be admitted to the seminaries, and be trained and educated according to the rule of the Holy Council of Trent, as the archbishops and bishops shall consider necessary for the wants and benefit of the diocese. The regulations, doctrines, government, and administration of the seminaries shall be subjected to the full and free authority of the archbishops and bishops according to the canonical forms.

The rectors and professors of the seminaries shall also be nominated by the archbishops and bishops, and shall be removed as often as they shall consider it necessary or beneficial.

Because it is incumbent upon the bishops to watch over faith and moral doctrines, they shall in nowise be impeded in the exercise of this duty, even with regard to public schools.

VI. His Majesty, with the advice of the archbishops and bishops, will assign a residence with a sufficient endowment in which infirm and aged well-deserving ecclesiastics shall find comfort and refuge.

VII. Moreover, His Majesty considering how many benefits the Church and the State itself have received and may hereafter receive from religious orders, and that he may prove his good will toward the Holy See, will take care, with the advice of the Holy See, to found and suitably endow institutions of the monastic orders of both sexes for the instruction of youth in religion and literature, and in aid of the parish priests, or for the relief of the infirm.

VIII. The property of seminaries, parishes, benefices, and of all other ecclesiastical foundations shall be always preserved entire, nor be diverted or changed into pensions.

Moreover, the Church shall have the right of acquiring new possessions, and whatever it may have newly acquired shall be considered its own by the same right as the ancient ecclesiastical foundations, of which, as well as of those which it shall hereafter acquire, no suppression or union shall be made without the intervention of the authority of the Apostolic See, saving always the powers granted to bishops by the Holy Council of Trent.

IX. His Holiness, considering the benefits which will proceed from this Convention in regard to ecclesiastical and religious affairs, will concede in perpetuity to His Majesty King Maximilian Joseph and his Catholic successors, by apostolical letters to be issued immediately after the ratification of the present Convention, the indulgence of nominating fit and proper ecclesiastics, endowed with those qualifications which the sacred canons require, to the vacant archiepiscopal and episcopal churches of the Kingdom of Bavaria. But His Holiness will give the canonical institution to such persons according to the accustomed forms, and until the same is obtained, they shall in no way interfere with the government or administration of the respective churches to which they have been nominated. And the first-fruits and chancery taxes shall be regulated anew in proportion to the yearly revenue of each appointment (*mensa*).

X. His Holiness will confer the appointment of provost both in the metropolitan and in the cathedral churches; His Majesty will nominate to the deaneries; he will also nominate to the canonries during the six Apostolical or Papal months. As to the other six months, during three of them the archbishop and bishop shall nominate, and during the remaining three the chapter.

Henceforth no others shall be admitted to the chapters of either metropolitan or cathedral churches, but natives, who in addition to the qualifications required by the holy Council of Trent, shall have been praiseworthy engaged in the cure of souls and in the sacred ministry, or shall have rendered assistance to the archbishop or bishop in the administration of the diocese, or have made themselves remarkable by their virtues and acquirements. The vicarages, however, in the said metropolitan and cathedral churches shall be at the free disposal of the archbishop or bishop.

For the present occasion, however, the chapters not having yet been appointed, all that is ordained in this Article cannot be performed, the Apostolic Nuncio, therefore, after having conferred with His Majesty's Council and heard those interested, will appoint the new chapters. The same proceeding shall be observed with regard to vicars or prebendaries.

The dignitaries, canons, and all the residentiary beneficiaries, being prohibited, according to the sacred canons, from holding a plurality of benefices and prebends, are bound to reside in their benefices, according to the strictness of those canons, saving always the authority of the Holy See.

XI. The King of Bavaria will present to those benefices, whether parochial or curacies and ordinary (*simplicia*) benefices, to which the Dukes and Electors, his predecessors, presented by lawful right of patronage, whether acquired by endowment, or foundation, or by construction.

His Majesty will also present to those benefices to which the ecclesiastical corporations not now existing presented.

His Majesty's subjects who enjoy the lawful right of patronage as above, shall present to the respective benefices in their patronage, whether parochial, or curacies or ordinary benefices.

And the archbishops and bishops shall give canonical institution to the presentees to parochial benefices or to curacies having the due requisites, and who have previously undergone an examination by the ordinaries relative to doctrines and morals.

But the presentation to all these benefices must be made within the time prescribed by the canons, otherwise they may be unrestrictedly conferred by the archbishops and bishops.

And all the remaining benefices, whether parochial or curacies or ordinary benefices, which were conferred by former prelates of the eight churches of the Kingdom of Bavaria, shall be freely conferred by the archbishops and bishops upon persons agreeable to His Majesty.

XII. For the government of dioceses, the archbishops and bishops shall be free to exercise whatever appertains to their pastoral ministry, whether from the declaration or from the disposition of the sacred canons, according to the present discipline of the Church approved by the Holy See, and especially—

a. To appoint as vicars, councillors, and assistants in their administrations, such ecclesiastics as they may consider fit for the said offices;

b. To receive into the clerical order, and also with the sanction of the holy canons to promote to higher orders, those whom they may consider necessary or useful for their dioceses, who shall have been examined by the archbishops and bishops or their vicars with the synodal examiners; and on the contrary, to prevent those whom they may think unworthy from taking orders, notwithstanding the impediment of any pretext whatever;

c. To hear and give sentence in ecclesiastical causes in their court, and especially those relating to marriage, which according to canon 12, sess. 24, of the holy Council of Trent, appertain to ecclesiastical judges, excepting the merely civil causes of the clergy—for example; contracts, debts, and inheritances—which the lay judges will hear and determine;

d. To inflict upon ecclesiastics, deserving reproof or not conducting themselves in a manner suitable to their order and profession, the punishments authorized by the Council of Trent and others which they consider necessary, saving the right of canonical appeal, and to confine them in the seminaries or buildings destined for that purpose; to censure also those of the faithful who may transgress the ecclesiastical laws and sacred canons;

e. To communicate, according to the duty of the pastoral function, with the clergy and people of the diocese, and to publish independently instructions and ordinances concerning ecclesiastical affairs; for the rest, the communication of the bishops, the clergy, and the people, with the Holy See, in spiritual and ecclesiastical matters, shall be entirely free;

f. To erect, divide, or unite parishes, with the advice of His Majesty, especially as regards the necessary assignment of revenues.

g. To order or appoint public prayers and other pious works, whenever the welfare of the Church, the State, or the people may require them; and to take care that in the ecclesiastical functions, but especially in the mass, and in the administration of the sacraments of the Church, the formulæ be used in the Latin language.

XIII. Whenever the archbishops and bishops shall point out to the Government, books, either printed in the kingdom or introduced therein, which may contain anything contrary to morals, or to the discipline of the Church,

the Government shall take care that the circulation shall, by proper means, be hindered.

XIV. His Majesty will prohibit the disparagement of the Catholic religion, its rights and liturgy, whether by words, by deeds, or by writings; or that the prelates or ministers of the churches should be impeded in the exercise of their functions, especially that of watching over the faith and moral doctrines and the discipline of the Church. Desirous, moreover, that due honour should be rendered to the sacred ministers, according to the Divine commands, he will not suffer anything to be done which may disgrace or bring them into contempt, and will command that they shall be treated on every occasion by the magistrates of the kingdom with the peculiar reverence and respect due to their profession.

XV. The archbishops and bishops shall take the oath of fidelity in presence of His Majesty, in the following words:—

“I swear and promise obedience to the holy Gospels of God, and fidelity to His Royal Majesty; I also promise to hold no communication, to be present at no council, to retain no suspected connexion, either within or without, which may be injurious to public tranquillity; and if either in my own diocese or elsewhere I should know of anything being done hurtful to the State, I will inform His Majesty.”

XVI. By the present Convention, the laws, ordinances, and decrees hitherto issued in Bavaria, in so far as they are opposed hereto, shall be considered abrogated.

XVII. For other matters which concern ecclesiastical affairs and persons, of which no express mention is made in these Articles, they shall be regulated and administered according to the doctrine of the Church and of its existing and approved discipline. But if hereafter any difficulty should arise, His Holiness and His Majesty reserve to themselves to confer with each other, and settle the matter amicably.

XVIII. Each of the Contracting Parties promises for himself and for his successors to observe sacredly everything concerning which it has been agreed on either side in these Articles; and the present Convention shall be declared a law of the State by His Majesty; furthermore, His Majesty promises that neither he nor his successors will, at any time or from any cause, add to or alter the Articles of this Convention, or those to be published, without the authority and co-operation of the Apostolic See.

XIX. The ratifications of this Convention shall be exchanged within forty days from its date, or sooner if possible.

Given at Rome, June 5, 1817.

(Signed)

HERCULES CARDINAL CONSALVI.

CASIMIR HAFTELIN,
Bishop of the Chersonese.

We accept, ratify, and confirm the afore-said Convention with all its Articles; and at the same time firmly promise that we will faithfully observe everything concerning which it is thus agreed, and will take care that they shall be strictly observed by all our subjects.

In witness whereof we have signed these presents with our own hand, and ordered our Royal seal to be attached thereto.

Given at Munich, in our Royal Palace, the 24th day of October, in the year of our Lord 1817, and of our reign the twelfth.

(Signed)

MAXIMILIAN JOSEPH.

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BELGIUM.

No. 4.

*Lord Howard de Walden to Viscount Palmerston.—(Received
December 21.)*

(Extract.)

Brussels, December 20, 1850.

I HAVE the honour to transmit, as instructed by your Lordship, copies of the Concordats relating to this country with the Court of Rome: the first being with Buonaparte, when First Consul; the second with William I, King of the Netherlands.

These State papers, with everything connected with them, are contained in the accompanying volume, "*Législation des Paroisses en Belgique*," in which will also be found all the laws and regulations bearing upon ecclesiastical matters in this country since 1790.

Although these Concordats no longer have any force, as such, being superseded by the Constitution of 1830, many of the laws based upon them are still made the practice of the Roman Catholic Church in Belgium.

I inclose also copies of the Constitution of Belgium, one as published with annotations, and which work has been recommended to me by the Department of Justice and Ecclesiastical Affairs, as authority in explanation of the spirit of this Code.

The Articles relating to Belgium are Nos. 14, 15, 16, and 117.

By the Constitution of 1830, the Church is rendered totally independent of the State as to all spiritual matters.

Though the salaries of the clergy are fixed, assigned and voted by the Chambers, the nominations of archbishops and bishops are made by the Pope, and those of the priests, &c., by the archbishops and bishops in their respective dioceses.

The installation of archbishops and bishops are notified by the Nuncio to the Minister of Foreign Affairs, those of the priests by the archbishops and bishops to the Minister of Justice and Ecclesiastical Affairs, as matters of information for administrative authority, and for the payment of their salaries.

All bulls, rescripts, &c., are published without any previous permission or sanction from the Government being required.

The Pope, under the latitude now allowed by the Constitution, can increase the numbers of the clergy of all classes; but the State retains discretionary and absolute power, as to granting and withholding salaries and regulating their amount. This was exemplified in 1848, when the allowance of the Archbishop of Malines was reduced from 30,000 to 21,000 francs.

Your Lordship will observe in Article III of the Concordat with the King of the Netherlands, the form of the oath of allegiance to be taken by the Roman Catholic Bishops to the Protestant King, William I, and also that of the prayer to be offered up in the churches for that Sovereign by name.

The prayer suppressing the name still forms part of the general service throughout the kingdom, though no longer required by law, and on His Majesty's birthdays, the special religious solemnity of a *Te Deum* is celebrated with all the State ceremonial of the Roman Catholic ritual, in every principal church throughout the kingdom.

In order duly to appreciate the exceptional position of Belgium towards Rome, as compared to that of other countries where the Roman Catholic religion is predominant, it must be borne in mind (as commented upon in pages 59 and 60, referring to Article XVI of the Constitution), that the Revolution of 1830 was mainly brought about by the Roman Catholic clergy and high church party; that the anti-Dutch feeling of the people was brought to bear in aid of the anti-Protestant spirit of the clergy.

Inclosure 1 in No. 4.

*Décret relatif aux Brefs, Bulles, Constitutions, Rescrits, Décrets, et autres Expéditions de la Cour de Rome. 9^e Juin, 1791.**

L'ASSEMBLEE Nationale, après avoir entendu ses Comités de Constitution et Ecclésiastique réunis, considérant qu'il importe à la Souveraineté Nationale et au maintien de l'ordre public dans le royaume, de fixer constitutionnellement les formes conservatrices des antiques et salutaires maximes par lesquelles la nation Française s'est toujours garantie des entreprises de la Cour de Rome, sans manquer au respect dû au chef de l'Eglise Catholique, décrète ce qui suit :

Art. 1. Aucuns brefs, bulles, rescrits, constitutions, décrets, et aucunes expéditions de la Cour de Rome, sous quelque dénomination que ce soit, ne pourront être reconnus pour tels, reçus, publiés, imprimés, affichés, ni autrement mis à exécution dans le royaume, mais y seront nuls et de nul effet, s'ils n'ont été présentés au Corps Législatif, vus et vérifiés par lui, et si leur publication ou exécution n'ont été autorisées par un décret sanctionné par le Roi, et promulgué dans les formes établies pour la notification des lois.

2. Les évêques, curés et tous autres fonctionnaires publics, soit ecclésiastiques, soit laïcs, qui, par contravention au précédent Article, liront, distribueront, feront lire, distribuer, imprimer, afficher, ou autrement, donneront publicité ou exécution aux brefs, bulles, rescrits, constitutions, décrets ou autres expéditions de la Cour de Rome, non autorisés par un décret du Corps Législatif, sanctionné par le Roi, seront poursuivis criminellement comme perturbateurs de l'ordre public, et punis de la peine de la dégradation civique, sans préjudice à l'exécution de l'Article 2 du Décret du 7 Mai dernier.

(Translation.)

Decree relative to Briefs, Bulls, Ordinances, Rescripts, Decrees, and other missives from the Court of Rome. June 9th, 1791.

THE National Assembly, after having heard its assembled Committees of Constitution and Ecclesiastics, considering that it conduces to the national sovereignty and to the maintenance of public order in the kingdom, to establish constitutionally the conservative forms of the ancient and salutary maxims of the Court of Rome, without failing in respect to the head of the Catholic Church, decrees as follows :

* Published in Belgium, January 26, 1797.

Article I. Any briefs, bulls, rescripts, ordinances, decrees, and other missives from the Court of Rome, under whatsoever denomination, shall not be recognized as such, received, published, printed, proclaimed, or otherwise carried into effect within the kingdom, but shall be null and void, if they shall not have been presented to the Legislative Body, seen and verified by it; and if their publication or execution shall not have been authorized by a decree sanctioned by the King, and promulgated in the form established for the notification of laws.

II. The bishops, clergy, and all other public functionaries, whether ecclesiastics or laymen, who in contravention of the preceding Article, shall read, distribute, cause to be read, distributed, printed, proclaimed, or otherwise given publicity or effect to briefs, bulls, rescripts, ordinances, or other missives of the Court of Rome, not authorized by a decree of the Legislature, sanctioned by the King, shall be criminally prosecuted as disturbers of public order, and punished with civil degradation, without prejudice to the execution of Article II of the Decree of the 7th of May last.

Inclosure 2 in No. 4.

Concordat between the French Government and the Court of Rome, of the 26th Messidor an IX. (July 15, 1801.)

LE Premier Consul de la République Française, et Sa Sainteté le Souverain Pontife Pie VII, ont nommé pour leurs Plénipotentiaires respectifs:

Le Premier Consul, les citoyens Joseph Bonaparte, Conseiller d'Etat, Cretet, Conseiller d'Etat, et Bernier, Docteur en Théologie, curé de Saint-Laud d'Angers, munis de pleins-pouvoirs;

Sa Sainteté, son Eminence Monseigneur Hercule Consalvi, Cardinal de la Sainte Eglise Romaine, diacre de Sainte Agathe *ad suburram*, son Secrétaire d'Etat; Joseph Spina, Archevêque de Corinthe, Prélat Domestique de Sa Sainteté; et le Père Caselli, Théologien Consultant de Sa Sainteté, pareillement munis de pleins-pouvoirs en bonne et due forme;

Lesquels, après l'échange des pleins-pouvoirs respectifs, ont arrêté la Convention suivante:

Convention entre le Gouvernement Français et Sa Sainteté Pie VII.

Le Gouvernement de la République Française reconnaît que la religion Catholique, Apostolique et Romaine est la religion de la grande majorité des citoyens Français.

Sa Sainteté reconnaît également que cette même religion a retiré et attend encore en ce moment le plus grand bien et le plus grand éclat de l'établissement du culte Catholique en France, et de la profession particulière qu'en font les Consuls de la République.

En conséquence, d'après cette reconnaissance mutuelle, tant pour le bien de la religion que pour le maintien de la tranquillité intérieure, ils sont convenus de ce qui suit:

Art. I. La Religion Catholique, Apostolique et Romaine sera librement exercée en France: son culte sera public, en se conformant aux règlements de police que le Gouvernement jugera nécessaires pour la tranquillité publique.

II. Il serait fait par le Saint Siège, de concert avec le Gouvernement, une nouvelle circonscription des diocèses Français.

III. Sa Sainteté déclarera aux titulaires des évêchés Français qu'elle attend d'eux avec une ferme confiance, pour le bien de la paix et de l'unité, toute espèce de sacrifices, même celui de leurs sièges.

D'après cette exhortation, s'ils se refusaient à ce sacrifice commandé par le bien de l'Eglise (refus, néanmoins, auquel Sa Sainteté ne s'attend pas), il sera pourvu par de nouveaux titulaires au gouvernement des évêchés de la circonscription nouvelle, de la manière suivante.

IV. Le Premier Consul de la République nommera, dans les trois mois qui suivront la publication de la bulle de Sa Sainteté, aux archevêchés et évêchés de la circonscription nouvelle. Sa Sainteté conférera l'institution canonique, suivant les formes établies par rapport à la France avant le changement du Gouvernement.

V. Les nominations aux évêchés qui vaqueront dans la suite seront également faites par le Premier Consul, et l'institution canonique sera donnée par le Saint-Siège, en conformité de l'Article précédent.

VI. Les évêques, avant d'entrer en fonctions, prêteront directement, entre les mains du Premier Consul, le serment de fidélité qui était en usage avant le changement du Gouvernement, exprimé dans les termes suivants :

“Je jure et promets devant Dieu, sur les Saints Evangiles, de garder obéissance et fidélité au Gouvernement établi par la Constitution de la République Française. Je promets aussi de n'avoir aucune intelligence, de n'assister à aucun conseil, de n'entretenir aucune ligue, soit au dedans, soit au-dehors, qui soit contraire à la République; et si, dans mon diocèse ou ailleurs, j'apprends qu'il se trame quelque chose au préjudice de l'Etat, je le ferai savoir au Gouvernement.”

VII. Les ecclésiastiques du second ordre prêteront le même serment entre les mains des autorités civiles désignées par le Gouvernement.

VIII. La formule de prière suivante sera récitée à la fin de l'office divin, dans toutes les églises Catholiques de France :

Domine, salvam fac Rempublicam;

Domine, salvos fac Consules.

IX. Les évêques feront une nouvelle circonscription des paroisses de leurs diocèses, qui n'aura d'effet que d'après le consentement du Gouvernement.

X. Les évêques nommeront aux cures.

Leur choix ne pourra tomber que sur des personnes agréées par le Gouvernement.

XI. Les évêques pourront avoir un chapitre dans leur cathédrale, et un séminaire pour leur diocèse, sans que le Gouvernement s'oblige à les doter.

XII. Toutes les églises métropolitaines, cathédrales, paroissiales, et autres non aliénées, nécessaires au culte, seront remises à la disposition des évêques.

XIII. Sa Sainteté, pour le bien de la paix et l'heureux rétablissement de la religion Catholique, déclare que ni elle ni ses successeurs ne troubleront en aucune manière les acquéreurs des biens ecclésiastiques aliénés, et qu'en conséquence, la propriété de ces biens, les droits et revenus y attachés, demeureront incommutables entre leurs mains ou celles de leurs ayants-cause.

XIV. Le Gouvernement assurera un traitement convenable aux évêques et aux curés dont les diocèses et les paroisses seront compris dans la circonscription nouvelle.

XV. Le Gouvernement prendra également des mesures pour que les Catholiques Français puissent, s'ils le veulent, faire en faveur des églises des fondations.

XVI. Sa Sainteté reconnaît dans le Premier Consul de la République Française, les mêmes droits et prérogatives dont jouissait près d'elle l'ancien Gouvernement.

XVII. Il est convenu entre les Parties Contractantes que, dans le cas où quelqu'un des successeurs du Premier Consul actuel ne serait pas Catholique, les droits et prérogatives mentionnés dans l'Article ci-dessus et la nomination aux évêchés, seront réglés, par rapport à lui, par une nouvelle Convention.

Les ratifications seront échangées à Paris dans l'espace de quarante jours.

Fait à Paris, le 26 Messidor, an IX.

Articles Organiques de la Convention du 26 Messidor, an IX.

TITRE I.

Du Régime de l'Eglise Catholique dans ses rapports généraux avec les Droits et la Police d'Etat.

Art. 1. Aucune bulle, bref, rescrit, décret, mandat, provision, signature servant de provision, ni autres expéditions de la Cour de Rome, même ne concernant que les particuliers, ne pourront être reçues, publiés, imprimés, ni autrement mis à exécution, sans l'autorisation du Gouvernement.

2. Aucun individu se disant Nonce, Légat, Vicaire ou Commissaire Apostolique, ou se prévalant de toute autre dénomination, ne pourra, sans la même autorisation, exercer sur le sol Français ni ailleurs, aucune fonction relative aux affaires de l'Eglise Gallicane.

3. Les décrets des synodes étrangers, même ceux des Conciles Généraux, ne pourront être publiés en France avant que le Gouvernement en ait examiné la forme, leur conformité avec les lois, droits et franchises de la République Française, et tout ce qui, dans leur publication, pourrait altérer ou intéresser la tranquillité publique.

4. Aucun Concile national ou métropolitain, aucun Synode diocésain, aucune Assemblée délibérante n'aura lieu sans la permission expresse du Gouvernement.

5. Toutes les fonctions ecclésiastiques seront gratuites, sauf les oblations qui seraient autorisées et fixées par les règlements.

6. Il y aura recours au Conseil d'Etat, dans tous les cas d'abus de la part des supérieurs et autres personnes ecclésiastiques.

Les cas d'abus sont, l'usurpation ou l'excès de pouvoir, la contravention aux lois et règlements de la République, l'infraction des règles consacrées par les canons reçus en France, l'attentat aux libertés, franchises et coutumes de l'Eglise Gallicane, et toute entreprise ou procédé qui, dans l'exercice du culte, peut compromettre l'honneur des citoyens, troubler arbitrairement leur conscience, dégénérer contre eux en oppression, ou en injure, ou en scandale public.

7. Il y aura pareillement recours au Conseil d'Etat, s'il est porté atteinte à l'exercice public du culte et à la liberté que les lois et règlements garantissent à ses ministres.

8. Le recours compétera à toute personne intéressée; à défaut de plainte particulière, il sera exercé d'office par les préfets.

Le fonctionnaire public, l'ecclésiastique ou la personne qui voudra exercer le recours, adressera un mémoire détaillé et signé, au Conseiller d'Etat chargé de toutes les affaires concernant les cultes, lequel sera tenu de prendre, dans le plus court délai, tous les renseignements convenables; et, sur son rapport, l'affaire sera suivie et définitivement terminée dans la forme administrative, ou renvoyée, selon l'exigence des cas, aux autorités compétentes.

TITRE II.—*Des Ministres.*Section 1.—*Dispositions Générales.*

9. Le culte Catholique sera exercé sous la direction des Archevêques et Evêques dans leurs diocèses, et sous celles des curés dans leurs paroisses.

10. Tout privilège portant exemption ou attribution de la juridiction épiscopale est aboli.

11. Les Archevêques et Evêques pourront, avec l'autorisation du Gouvernement, établir dans leurs diocèses des Chapitres Cathédraux et des Séminaires. Tous autres établissements ecclésiastiques sont supprimés.

12. Il sera libre aux Archevêques et Evêques d'ajouter à leur nom le titre de citoyen ou celui de Monsieur. Toutes autres qualifications sont interdites.

Section 2.—*Des Archevêques ou Métropolitains.*

13. Les Archevêques consacreront et installeront leurs suffragants. En cas d'empêchement ou de refus de leur part, ils seront suppléés par le plus ancien Evêque de l'arrondissement Métropolitain.

14. Ils veilleront au maintien de la foi et de la discipline dans les Diocèses dépendant de leur Métropole.

15. Ils connaîtront des réclamations et des plaintes portées contre la conduite et les décisions des Evêques suffragants.

Section 3.—*Des Evêques, des Vicaires-Généraux et des Séminaires.*

16. On ne pourra être nommé Evêque avant l'âge de 30 ans, et si on n'est originaire Français.

17. Avant l'expédition de l'arrêté de nomination, celui ou ceux qui seront proposés, seront tenus de rapporter une attestation de bonne vie et mœurs, expédiée par l'évêque dans le diocèse duquel ils auront exercé les fonctions du ministère ecclésiastique; et ils seront examinés sur leur doctrine par un Evêque et deux prêtres, qui seront commis par le Premier Consul, lesquels adresseront le résultat de leur examen au Conseiller d'Etat Chargé de toutes les Affaires concernant les cultes.

18. Le prêtre nommé par le Premier Consul fera les diligences pour rapporter l'institution du Pape.

Il ne pourra exercer aucune fonction avant que la bulle portant son institution ait reçu l'attache du Gouvernement, et qu'il ait prêté en personne le serment prescrit par la Convention passée entre le Gouvernement Français et le Saint Siège.

Ce serment sera prêté au Premier Consul; il en sera dressé procès-verbal par le Secrétaire d'Etat.

19. Les Evêques nommeront et institueront les curés. Néanmoins ils ne manifesteront leur nomination, et ils ne donneront l'institution canonique, qu'après que cette nomination aura été agréée par le Premier Consul.

20. Ils seront tenus de résider dans leurs diocèses; ils ne pourront en sortir qu'avec la permission du Premier Consul.

21. Chaque Evêque pourra nommer deux Vicaires Généraux, et chaque Archevêque pourra en nommer trois; ils les choisiront parmi les prêtres ayant les qualités requises pour être Evêques.

22. Ils visiteront annuellement et en personne, une partie de leur diocèse, et, dans l'espace de cinq ans, le diocèse entier.

En cas d'empêchement légitime, la visite sera faite par un Vicaire-Général.

23. Les Evêques seront chargés de l'organisation de leurs séminaires, et les réglemens de cette organisation seront soumis à l'approbation du Premier Consul.

24. Ceux qui seront choisis pour l'enseignement dans les séminaires souscriront la déclaration faite par le clergé de France en 1682, et publiée par un édit de la même année ; ils se soumettront à y enseigner la doctrine qui y est contenue, et les Evêques adresseront une expédition en forme de cette soumission au Conseiller d'Etat chargé de toutes les affaires concernant les cultes.

25. Les Evêques enverront, toutes les années, à ce Conseiller d'Etat, le nom des personnes qui étudieront dans les séminaires, et qui se destineront à l'état ecclésiastique.

26. Ils ne pourront ordonner aucun ecclésiastique, s'il ne justifie d'une propriété produisant un revenu annuel de 300 francs, s'il n'a atteint l'âge de 25 ans, et s'il ne réunit les qualités requises par les Canons reçus en France.

Les Evêques ne feront aucune ordination avant que le nombre des personnes à ordonner ait été soumis au Gouvernement, et par lui agréé.

Section 4.—*Des Curés.*

27. Les curés ne pourront entrer en fonctions qu'après avoir prêté, entre les mains du préfet, le serment prescrit par la Convention passée entre le Gouvernement et le Saint Siège.

Il sera dressé procès-verbal de cette prestation, par le Secrétaire-Général de la Préfecture, et copie collationnée leur en sera délivrée.

28. Ils seront mis en possession par le curé ou le prêtre que l'Evêque désignera.

29. Ils seront tenus de résider dans leurs paroisses.

30. Les curés seront immédiatement soumis aux Evêques, dans l'exercice de leurs fonctions.

31. Les vicaires et desservants exerceront leur ministère, sous la surveillance et la direction des curés.

Ils seront approuvés par l'Evêque et révocables par lui.

32. Aucun étranger ne pourra être employé dans les fonctions du ministère ecclésiastique, sans la permission du Gouvernement.

33. Toute fonction est interdite à tout ecclésiastique, même Français, qui n'appartient à aucun diocèse.

34. Un prêtre ne pourra quitter son diocèse, pour aller desservir dans un autre, sans la permission de son Evêque.

Section 5.—*Des Chapitres Cathédraux et du gouvernement des diocèses pendant la vacance du Siège.*

35. Les Archevêques et Evêques qui voudront user de la faculté qui leur est donnée d'établir des chapitres, ne pourront le faire sans avoir rapporté l'autorisation du Gouvernement, tant pour l'établissement lui-même, que pour le nombre et le choix des ecclésiastiques destinés à les former.

36. Pendant la vacance des sièges, il sera pourvu par le Métropolitain, et à son défaut, par le plus ancien des Evêques suffragants, au gouvernement des diocèses.

Les Vicaires-Généraux de ces diocèses continueront leurs fonctions, même après la mort de l'Evêque, jusqu'à son remplacement.

37. Les Métropolitains, les Chapitres Cathédraux, seront tenus, sans délai, de donner avis au Gouvernement de la vacance des sièges, et des mesures qui auront été prises pour le gouvernement des diocèses vacants.

38. Les Vicaires-Généraux qui gouverneront pendant la vacance, ainsi que les Métropolitains ou capitulaires, ne se permettront aucune innovation dans les usages et coutumes des diocèses.

TITRE III.—*Du Culte.*

39. Il n'y aura qu'une liturgie et un catéchisme pour toutes les églises Catholiques de France.

40. Aucun curé ne pourra ordonner des prières publiques extraordinaires dans sa paroisse, sans la permission de l'Evêque.

41. Aucune fête, à l'exception du Dimanche, ne pourra être établie sans la permission du Gouvernement.

42. Tous les ecclésiastiques useront, dans les cérémonies religieuses, des habits et ornements convenables à leur titre; ils ne pourront dans aucun cas, ni sous aucun prétexte, prendre la couleur et les marques distinctives réservées aux Evêques.

43. Tous les ecclésiastiques seront habillés à la Française et en noir.

Les Evêques pourront joindre à ce costume, la croix pastorale et les bas violets.

44. Les chapelles domestiques, les oratoires particuliers, ne pourront être établis sans une permission expresse du Gouvernement, accordée sur la demande de l'Evêque.

45. Aucune cérémonie religieuse n'aura lieu hors des édifices consacrés au culte Catholique, dans les villes où il y a des temples destinés aux différents cultes.

46. Le même temple ne pourra être consacré qu'à un même culte.

47. Il y aura dans les cathédrales et paroisses, une place distinguée pour les individus Catholiques qui remplissent les autorités civiles et militaires.

48. L'Evêque se concertera avec le Préfet pour régler la manière d'appeler les fidèles au service divin par le son des cloches. On ne pourra les sonner pour toute autre causes, sans la permission de la police locale.

49. Lorsque le Gouvernement ordonnera des prières publiques, les Evêques se concerteront avec le Préfet et le Commandant Militaire du lieu pour le jour, l'heure, et le mode d'exécution de ces ordonnances.

50. Les prédications solennelles appelées sermons, et celles connues sous le nom de stations de l'Avent et du Carême, ne seront faites que par des prêtres qui en auront obtenu une autorisation spéciale de l'Evêque.

51. Les curés, aux prônes des messes paroissiales, prieront et feront prier pour la prospérité de la République Française et pour les Consuls.

52. Ils ne se permettront, dans leurs instructions, aucune inculpation directe ou indirecte, soit contre les personnes, soit contre les autres cultes autorisés dans l'Etat.

53. Ils ne feront au prône aucune publication étrangère à l'exercice du culte, si ce n'est celles qui seront ordonnées par le Gouvernement.

54. Ils ne donneront la bénédiction nuptiale qu'à ceux qui justifieront en bonne et due forme, avoir contracté mariage devant l'officier civil.

55. Les registres tenus par les ministres du culte n'étant et ne pouvant être relatifs qu'à l'administration des sacrements, ne pourront, dans aucun cas, suppléer les registres ordonnés par la loi pour constater l'Etat Civil des Français.

56. Dans les actes ecclésiastiques et religieux, on sera obligé de se servir du calendrier d'équinoxe établi par les lois de la République; on désignera les jours par les noms qu'ils avaient dans le calendrier des solstices.

57. Le repos des fonctionnaires publics sera fixé au Dimanche.

TITRE IV.—*De la circonscription des Archevêchés, des Evêchés, et de Paroisses; des édifices destinés au culte, et du traitement des Ministres.*

Section 1.—*De la circonscription des Archevêchés et des Evêchés.*

38. Il y aura en France dix Archevêchés ou Métropoles, et cinquante Evêchés.

59. La circonscription des Métropoles et des diocèses sera faite conformément au tableau ci-joint.

Section 2.—*De la circonscription des Paroisses.*

60. Il y aura au moins une paroisse dans chaque justice de paix.
Il sera en outre établi autant de succursales que le besoin pourra l'exiger.

61. Chaque Evêque, de concert avec le Préfet, réglera le nombre et l'étendue de ces succursales. Les plans arrêtés seront soumis au Gouvernement, et ne pourront être mis à exécution sans son autorisation.

62. Aucune partie du territoire Français ne pourra être érigée en cure ou en succursale, sans l'autorisation expresse du Gouvernement.

63. Les desservants des succursales sont nommés par les Evêques.

Section 3.—*Du traitement des Ministres.*

64. Le traitement des Archevêques sera de 15,000 fr.

65. Le traitement des Evêques sera de 10,000 fr.

66. Les curés seront distribués en deux classes.

Le traitement des curés de la première classe sera porté à 1500 fr.; celui des curés de la seconde classe, à 1000 fr.

67. Les pensions dont ils jouissent en exécution des lois de l'Assemblée Constituante, seront précomptées sur leur traitement.

Les Conseils-Généraux des grandes communes pourront, sur leurs biens ruraux ou sur leurs octrois, leur accorder une augmentation de traitement, si les circonstances l'exigent.

68. Les vicaires et desservants seront choisis parmi les ecclésiastiques pensionnés en exécution des lois de l'Assemblée Constituante.

Le montant de ces pensions et le produit des oblations formeront leur traitement.

69. Les Evêques rédigeront les projets de règlement relatifs aux oblations que les ministres du culte sont autorisés à recevoir pour l'administration des sacrements. Les projets de règlement rédigés par les Evêques ne pourront être publiés ni autrement mis à exécution, qu'après avoir été approuvés par le Gouvernement.

70. Tout ecclésiastique pensionnaire de l'Etat sera privé de sa pension, s'il refuse, sans cause légitime, les fonctions qui pourront lui être confiées.

71. Les Conseils-Généraux de département sont autorisés à procurer aux Archevêques et Evêques un logement convenable.

72. Les presbytères et les jardins attenants, non-aliénés, seront rendus aux curés et aux desservants des succursales. A défaut de ces presbytères, les Conseils-Généraux des communes sont autorisés à leur procurer un logement et un jardin.

73. Les fondations qui ont pour objet l'entretien des ministres et l'exercice du culte, ne pourront consister qu'en rentes constituées sur l'Etat; elles seront acceptées par l'Evêque diocésain, et ne pourront être exécutées qu'avec l'autorisation du Gouvernement.

74. Les immeubles autres que les édifices destinés au logement et les jardins attenants ne pourront être affectés à des titres ecclésiastiques, ni possédés par les ministres du culte à raison de leurs fonctions.

Section 4.—*Des édifices destinés au Culte.*

75. Les édifices anciennement destinés au culte Catholique, actuellement dans les mains de la nation, à raison d'un édifice par cure ou par succursale, seront mis à la disposition des Evêques par arrêté du Préfet du département.

Une expédition de ces arrêtés sera adressée au Conseiller d'Etat chargé de toutes les affaires concernant les cultes.

76. Il sera établi des fabriques pour veiller à l'entretien et à la conservation des temples, à l'administration des aumônes.

77. Dans les paroisses où il n'y a point d'édifice disponible pour le culte, l'Evêque se concertera avec le Préfet pour la désignation d'un édifice convenable.

(Translation.)

THE First Consul of the French Republic, and His Holiness the Sovereign Pontiff Pius VII, have appointed as their respective Plenipotentiaries:

The First Consul, citizens Joseph Bonaparte, Councillor of State; Cretet, Councillor of State; and Bernier, Doctor of Theology, Curate of Saint-Land d'Angers, furnished with full-powers;

His Holiness, his Eminence Monsignor Hercule Consalvi, Cardinal of the Holy Roman Church, Deacon of St. Agatha *ad suburram*, his Secretary of State; Joseph Spina, Archbishop of Corinth, Domestic Prelate of His Holiness; and Father Caselli, Consulting Theologian of His Holiness, alike furnished with full-powers in good and due form;

Who, after the exchange of their respective full-powers, have agreed to the following Convention:

Convention between the French Government and His Holiness the Pope Pius VII.

THE Government of the Republic acknowledges that the Catholic, Apostolic, and Roman religion is the religion of the great majority of French citizens.

His Holiness in like manner acknowledges that this same religion has derived, and is likely to derive, the greatest benefit and the greatest splendour from the establishment of the Catholic worship in France, and from its being openly professed by the Consuls of the Republic.

This mutual acknowledgment being made, in consequence, as well for the good of religion as for the maintenance of interior tranquillity, they have agreed as follows:

Article I. The Roman Catholic Apostolic religion shall be freely exercised in France. Its service shall be publicly performed, conformably to the regulations of police which the Government shall judge necessary for the public tranquillity.

II. There shall be made by the Holy See, in concert with the Government, a new division of French dioceses.

III. His Holiness shall declare to the titular French bishops, that he expects from them, with the firmest confidence, every sacrifice for the sake of peace and unity—even that of their sees.

After this exhortation, if they should refuse the sacrifice commanded for the good of the Church (a refusal, nevertheless, which His Holiness by no means expects), the sees of the new division shall be governed by bishops appointed as follows:

IV. Within three months after the publication of His Holiness's bull, the Chief Consul shall present to the archbishoprics and bishoprics of the new division. His Holiness shall confer canonical institution, according to the forms established for France before the Revolution (*avant le changement de Gouvernement*).

V. The nomination to the bishoprics which become vacant in future shall likewise belong to the Chief Consul, and canonical institution shall be administered by the Holy See, conformably to the preceding Article.

VI. The bishops, before they enter upon their functions, shall take, before the Chief Consul, the oath of fidelity which was in use before the Revolution, expressed in the following words:—

“I swear and promise to God, upon the Holy Evangelists, to preserve obedience and fidelity to the Government established by the Constitution of the French Republic. I likewise promise to carry on no correspondence, to be present at no conversation, to form no connexion, whether within the territories of the Republic or without, which may in any degree disturb the public tran-

quillity : and if, in my diocese or elsewhere, I discover that anything is going forward to the prejudice of the State, I will immediately communicate to Government all the information I possess."

VII. Ecclesiastics of the second order shall take the same oath before the civil authorities appointed by the Government.

VIII. The following formula of prayer shall be recited at the end of divine service in all the Catholic churches of France:

*" Domine, saluum fac Reipublicam.
Domine, salvos fac Consules."*

IX. The bishops shall make a new division of the parishes in their dioceses ; which, however, shall not take effect till after it is ratified by Government.

X. The bishops shall have the appointment of the parish priests.
They shall only choose persons approved of by Government.

XI. The bishops may have a chapter in their cathedral and a seminary for the diocese, without the Government being obliged to endow them.

XII. All the metropolitan, cathedral, parochial, and other churches, which have not been alienated, necessary to public worship, shall be placed at the disposal of the bishops.

XIII. His Holiness, for the sake of peace and the happy re-establishment of the Catholic religion, declares that neither he nor his successors will disturb in any manner those who have acquired the alienated property of the Church ; and that in consequence, that property and every part of it shall belong for ever to them, their heirs and assigns.

XIV. The Government shall grant a suitable salary to bishops and parish priests whose dioceses and parishes are comprised in the new division.

XV. The Government shall likewise take measures to enable French Catholics, who are so inclined, to dispose of their property for the support of religion.

XVI. His Holiness recognizes in the Chief Consul of the French Republic the same rights and prerogatives in religious matters which the ancient Government enjoyed.

XVII. It is agreed between the Contracting Parties, that in case any of the successors of the present First Consul should not be a Roman Catholic, the rights and prerogatives mentioned in the foregoing Articles, as well as the nomination to the bishops' sees, shall be regulated, with regard to him, by a new convention.

The ratifications shall be exchanged at Paris in the space of forty days.

Done at Paris, the 26th Messidor, year 9 of the French Republic.

Organic Articles of the Gallican Church.

CHAPTER I.—*Of the Regulations of the Catholic Church, as connected with the Policy of the State.*

Article 1. NO bull, rescript, decree, mandate, commission, or anything in the place of a commission, nor other missive from the Court of Rome, even though it should relate to individuals only, shall be received, published, printed, or otherwise put in force, without the authority of the Government.

2. No individual styling himself Nuncio, Legate, Apostolic-Vicar, or Commissary, or assuming any other character whatever, shall exercise, without the same authority, within the territories of France, or elsewhere, any function relative to the affairs of the Gallican Church.

3. The decrees of foreign Synods, or even of General Councils, shall not be published in France before the Government shall have examined their form, their conformity to the laws, rights, and privileges of the French Republic, and

anything therein which when published might affect or concern the public tranquillity.

4. No national or metropolitan Council, no diocesan Synod, no deliberative assembly, shall be allowed to be held without the express permission of Government.

5. All ecclesiastical functions shall be gratuitous, with the exception of those oblations which shall be authorized, and fixed by particular regulations.

6. Recourse shall be had to the Council of State in every instance of abuse on the part of superiors and other ecclesiastical persons. The instances of abuse are usurpation, or excess of power, contravention of the laws and institutions of the Republic; infraction of the rules laid down in the canons received in France; any attack upon the liberties, franchises, or customs of the Gallican Church; and any proceeding which, in the exercise of worship, is likely to compromise the honour of citizens, arbitrarily to trouble their conscience, or to lead to oppression, injury, or public scandal.

7. There shall also be a right of appeal to the Council of State, on the ground of any attempt being made to interrupt the exercise of public worship, or to infringe that liberty which the general laws of the Republic, as well as particular regulations, guarantee to its ministers.

8. Any person interested in the matter shall be competent to make such appeal; and if no complaint is made by individuals, the business shall be taken up officially by the prefects. The public functionary, ecclesiastic or individual, who shall wish to exercise this right of appeal, must address a signed memorial containing a detail of the grievance complained of, to the Councillor of State presiding over religious affairs, whose duty it will then become to make, with the least possible delay, every inquiry into the subject; and upon his report the affair shall be definitively settled, or sent back, according to the urgency of the case, to the competent authorities.

CHAPTER II.—Of Ministers.

Section 1.—General Arrangements.

9. The Catholic worship shall be exercised under the direction of the archbishops and bishops in their dioceses, and under that of the curates in their parishes.

10. Every privilege conferring exemption or prerogative upon episcopal jurisdiction is abolished.

11. The archbishops and bishops shall have the power, with the sanction of the Government, of establishing in their dioceses, cathedral chapters and seminaries. All other ecclesiastical establishments are suppressed.

12. It shall be open to the archbishops and bishops to add to their names the appellation of *Citoyen* or that of *Monsieur*. All other designations are forbidden.

Section 2.—Of Archbishops or Metropolitans.

13. The archbishops shall consecrate and instal their suffragans. In case of hindrance or of refusal on their part, they shall be supplied by the oldest bishop of the metropolitan arrondissement.

14. They shall see to the maintenance of the faith and of discipline in the dioceses dependent on their metropolis.

15. They shall attend to protests and complaints brought against the conduct and the decisions of the suffragan bishops.

Section 3.—Of Bishops, of Vicars-General, and of Seminaries.

16. No man shall be appointed bishop before the age of thirty years, nor unless he be of French origin.

17. Before the issuing of the decree of nomination, he or they who shall be proposed shall be obliged to produce a testimonial of good life and morals, issued by the bishop in whose diocese they shall have exercised the functions of the ecclesiastical ministry; and they shall be examined touching their doctrine,

by a bishop and two priests who shall be commissioned by the First Consul, and who shall communicate the result of their examination to the Councillor of State charged with all matters concerning worship.

18. The priest nominated by the First Consul shall take care to obtain his institution from the Pope. He shall not have the power to exercise any function till the bull conveying his institution shall have received the sanction of the Government, and until he shall have taken in person the oath prescribed by the Convention agreed to between the French Government and the Holy See.

This oath shall be taken before the First Consul; a record thereof shall be prepared by the Secretary of State.

19. The bishops shall nominate and institute the curates. Nevertheless, they shall not make their nomination public, nor grant the canonical institution, until after that nomination shall have been accepted by the First Consul.

20. They shall be obliged to reside in their dioceses; they must not leave them without the permission of the First Consul.

21. Each bishop may nominate two vicars-general, and each archbishop may nominate three; they shall select them from among the priests who have the qualifications requisite for becoming bishops.

22. They shall visit annually and in person a part of their diocese, and within five years the whole diocese.

In case of a legitimate cause of hindrance, the visitation shall be made by a vicar-general.

23. The bishops shall be charged with the organization of their seminaries, and the regulations for that organization shall be submitted for the approval of the First Consul.

24. Those who shall be chosen for teaching in the seminaries shall subscribe to the declaration made by the clergy of France in 1682, and published by an edict of the same year; they shall submit to teach the doctrine which is therein contained, and the bishops shall send a formal document recording this submission to the Councillor of State charged with all matters concerning worship.

25. The bishops shall send every year to that Councillor of State, the names of the persons who may be studying in the seminaries, and who intend to take orders.

26. They may not ordain any ecclesiastic if he cannot prove himself to be the owner of a property producing an annual income of 300 francs; if he has not attained the age of 25 years, and if he does not possess the qualifications required by the canons received in France.

The bishops shall not hold any ordination until the number of the persons to be ordained shall have been submitted to and accepted by the Government.

Section 4.—Of Curates.

27. Curates may not enter upon their duties until they have taken before the prefect the oath prescribed by the Convention agreed to between the Government and the Holy See. Records of these affidavits shall be drawn up by the Secretary-General of the Prefecture, and exact copies of them shall be delivered to the curates.

28. They shall be instituted by the curate or the priest whom the bishop shall appoint.

29. They shall be obliged to reside in their parishes.

30. The curates shall, in the exercise of their duties, be immediately under the control of the bishops.

31. Vicars and officiating ministers shall exercise their ministry under the superintendence and direction of the curates.

They shall be approved by the bishop and liable to be dismissed by him.

32. No foreigner may be employed to perform the duties of the ecclesiastical ministry without the permission of the Government.

33. Clergymen not belonging to any diocese are prohibited from performing any ecclesiastical rite. This prohibition includes Frenchmen as well as foreigners.

34. A priest may not quit his diocese to go and officiate in another without the permission of his bishop.

Section 5.—*Of Cathedral Chapters, and of the Government of Dioceses during the vacancy of the See.*

35. Archbishops and bishops who may wish to use the power which is given to them of establishing chapters, may not do so without having obtained the authority of the Government, both for the establishment itself and for the number and selection of the ecclesiastics destined to compose them.

36. During the vacancy of the sees provision shall be made by the metropolitan, and, in default of him, by the senior of the suffragan bishops, for the government of the dioceses.

The vicars-general of those dioceses shall continue in the discharge of their duties, even after the death of the bishop, till the appointment of his successor.

37. The metropolitans and the cathedral chapters shall, without delay, give notice to the Government of the sees being vacant, and of the measures which may have been taken for the government of the vacant dioceses.

38. The vicars-general and the metropolitans or members of chapters who may act during a vacancy shall abstain from any innovation in the usages and customs of the dioceses.

CHAPTER III.—*Of Public Worship.*

39. There shall be but one liturgy and one catechism for all the Catholic churches of France.

40. No curate may order extraordinary public prayers in his parish, without the permission of the bishop.

41. No holiday, except Sunday, may be established without the permission of the Government.

42. All ecclesiastics shall use, in all religious ceremonies, vestments and ornaments suitable to their order; they may not on any occasion, nor under any pretext, assume the colour and the distinctive marks reserved to the bishops.

43. All the ecclesiastics shall be dressed in the French manner, and in black. The bishops may add to this costume the pastoral cross and purple stockings.

44. Domestic chapels, or private oratories, may not be established without an express permission from the Government, to be granted at the request of the bishop.

45. No religious ceremony shall take place outside the walls of buildings appropriated to the Catholic worship, in towns where there are churches belonging to other persuasions.

46. Churches shall not be appropriated to more than one form of worship.

47. In the cathedrals and parish churches a place shall be set apart for the Catholic individuals who fill civil and military offices of authority.

48. The bishop shall arrange with the prefect the mode of summoning the faithful to divine service by the sound of bells, which may not be rung for any other purpose without the permission of the local police.

49. When the Government shall order public prayers, the bishop shall arrange with the prefect and the military commandant of the place, the day, the hour, and the mode of carrying such orders into effect.

50. Solemn preachings, called sermons, and those known by the name of stations of Advent and of Lent, shall be performed only by priests who shall have obtained from the bishop a special authority for that purpose.

51. The curates shall, in officiating at parochial masses, pray and cause prayer to be made for the prosperity of the French Republic and for the Consuls.

52. They shall abstain in their preaching from any accusation, direct or indirect, either against persons or against the other modes of worship allowed in the State.

53. They shall not during the service give out any notices not relating to worship, except those which may be ordered by the Government.

54. They shall not perform the marriage ceremony for any persons who do not show in proper form, that they have contracted marriage before the civil officer.

55. As the registers kept by the ministers of religion can only relate to the administration of the sacraments, they shall in no case be used instead of the registers established by law to prove the civil condition (*l'état civil*) of Frenchmen.

56. In ecclesiastical and religious documents the calendar established by the laws of the Republic must be used; the days shall be designated by the names they had in the solstitial calendar.

57. Sunday shall be the day of rest for public functionaries.

CHAPTER IV.—*Respecting the Boundaries of Archbishoprics and Bishoprics; respecting Houses of Worship; and respecting the Stipends of the Ministers.*

Section 1.—*Boundaries of Archbishoprics and Bishoprics.*

58. There shall be in France ten archbishoprics or metropolitan sees and fifty bishoprics.

59. The bounds of the archbishoprics and of the dioceses shall be drawn in conformity with the annexed table.

Section 2.—*Boundaries of Parishes.*

60. There shall be at least one parish in each “justice de paix.”

There shall be moreover established as many chapelries as may be requisite.

61. Each bishop, in concert with the prefect, shall regulate the number and extent of these chapelries. The plans agreed upon shall be submitted to the Government, and shall not be acted upon without its authority.

62. No portion of the French territory shall be formed into a cure or into a chapelry without the express authority of the Government.

63. The officiating ministers of the chapelries are appointed by the bishops.

Section 3.—*Respecting the Stipends of the Ministers.*

64. The stipend of the archbishops shall be 15,000 fr.

65. The stipend of the bishops shall be 10,000 fr.

66. The curates shall be divided into two classes.

The stipend of the curates of the first class shall amount to 1500 fr.; that of the curates of the second class to 1000 fr.

67. The pensions which they enjoy in pursuance of the laws of the Constituent Assembly, shall be deducted from their stipend.

The General Councils of large communes may, if necessary, charge their lands or revenues with an increase of stipend for the curates.

68. Vicars and officiating ministers shall be selected from among the ecclesiastics receiving pensions in pursuance of the laws of the Constituent Assembly. The amount of those pensions and the produce of offerings shall form their stipend.

69. The bishops shall draw up projects of law relative to the offerings which the ministers of public worship are authorized to receive for the administration of the sacraments. The projects of law drawn up by the bishops may not be published nor otherwise acted upon until they shall have been approved by the Government.

70. Every ecclesiastical State pensioner shall be deprived of his pension if he should refuse to perform, without lawful excuse, the duties which may be intrusted to him.

71. The General Councils of the departments are authorized to provide suitable residences for the archbishops and bishops.

72. Such glebe-houses and gardens as have not been alienated may be granted to the curates and to the officiating ministers of the chapelries. Where there are no such glebe-houses, the General Councils of the communes are authorized to provide residences and gardens for the ministers.

73. Endowments intended for the maintenance of ministers and of public worship must consist of State securities; they shall be approved by the diocesan bishop, and may not be applied without the authority of the Government.

74. No real property, except the glebe-houses and gardens attached thereto, shall be made over to ecclesiastical uses, nor be possessed by the ministers of public worship, by virtue of their office.

Section 4.—*Respecting Buildings intended for Public Worship.*

75. The buildings formerly appropriated to the Catholic worship, and now in the hands of the nation, either as parish churches or chapels of ease, shall be placed at the disposal of the bishops by decree of the prefect of the department.

Copies of these decrees shall be sent to the Councillor of State charged with all matters relating to public worship.

76. Arrangements shall be made in order to provide for the maintenance and preservation of the churches and for the distribution of alms.

77. In parishes where there is no building disposable for public worship, the bishop shall arrange with the prefect for the provision of a suitable building.

Inclosure 3 in No. 4.

Concordat between William I, King of the Netherlands, and the Court of Rome. June 18, 1827.

SA Majesté Guillaume I, Roi des Pays Bas, Prince d'Orange-Nassau, Grand Duc de Luxembourg, &c., et Sa Sainteté le Souverain Pontife Léon XII, désirant s'entendre sur les affaires de l'Eglise Catholique, Apostolique Romaine, dans tout le Royaume des Pays Bas, ont nommé pour leurs Plénipotentiaires, savoir :

Sa Majesté le Roi des Pays Bas, son Excellence M. Antoine Philippe Fiacre Ghislain, Comte de Celles, Chevalier de l'Ordre Royal du Lion Belgique, Membre de la Deuxième Chambre des Etats Généraux du Royaume, &c.;

Et Sa Sainteté le Souverain Pontife, son Eminence Monseigneur Maurus Cappellari, Prêtre Cardinal de la Sainte Eglise Romaine, Préfet de la Sacrée Congrégation de la Propagande ;

Les dits Plénipotentiaires, assistés le premier du Référéndaire de Première Classe au Conseil d'Etat, Jean Pierre Ignace Germain, Conseiller d'Ambassade, et le second de Monseigneur François Capaccini, substitut de la Secrétairerie de Brefs ;

Après avoir fait l'échange de leurs pleins-pouvoirs, qui ont été trouvés en bonne et due forme, sont convenus des Articles suivans :

Art. I. Le Concordat de 1801, entre le Souverain Pontife Pie VII et le Gouvernement Français, en vigueur dans les provinces méridionales du Royaume des Pays Bas, sera applicable aux provinces septentrionales.

II. Chaque Diocèse aura son chapitre et son séminaire.

III. Pour les cas prévus par l'Article XVII de la Convention de 1801, est statué :

Toutes les fois qu'un siège Archiépiscope ou Episcopale viendra à vaquer, les chapitres des églises vacantes auront soin dans le premier mois à compter du jour de la vacance, de porter à la connaissance de Sa Majesté les noms des candidats appartenans au clergé du Royaume des Pays Bas qu'ils auront jugés dignes et capables de gouverner l'Eglise Archiépiscope ou Episcopale, et en qui ils auront reconnu la piété, la doctrine, et la prudence exigées dans les évêques par les lois de l'Eglise.

Si par hasard, parmi les candidats, il y en avait qui ne fussent pas également agréables au Roi, les chapitres effaceront les noms de ceux-ci de la liste, qui pourtant devra rester composée d'un nombre de candidats suffisant pour que le choix du nouvel archevêque ou évêque puisse avoir lieu. Alors les chapitres procéderont à l'élection canonique de l'archevêque ou de l'évêque, qu'ils choisiront selon les formes canoniques d'usage parmi les candidats, dont les noms auront été maintenus sur la liste ; et

ils adresseront dans le mois, au Saint Père, l'acte authentique de cette élection.

Le Souverain Pontife, d'après l'instruction émanée par ordre du Pape Urbain VIII, d'heureuse mémoire, donnera la commission de dresser le procès d'information sur l'état de l'Eglise, et sur les qualités de la personne destinée à être promue à l'Eglise Archiépiscopale ou Episcopale, et après avoir reçu le résultat de ces informations, si le Saint Père juge que les qualités exigées dans un évêque par les canons, se trouvent réunies dans la personne élue, il lui donnera l'institution canonique par les lettres apostoliques, d'après les formes établies et dans le plus bref délai possible.

Si au contraire l'élection n'avait pas été canoniquement conduite, ou si le candidat n'avait pas été reconnu par le Saint Père doué des qualités susdites, le Souverain Pontife, par faveur spéciale, concédera au chapitre le pouvoir de procéder à une nouvelle élection comme ci-dessus, dans les formes canoniques.

Les ratifications de la présente Convention seront échangées à Rome dans le délai de soixante jours, ou plus tôt si faire se peut.

Fait à Rome, le 18 Juin, 1827.

(Signé)

COMTE DE CELLES.
GERMAIN.

D. MAURUS CARD. CAPPELLARI.
FRANCISCUS CAPACCINI.

(Translation.)

HIS Majesty William I, King of the Netherlands, Prince of Orange-Nassau, Grand Duke of Luxemburg, &c., and His Holiness the Sovereign Pontiff Leo XII, desiring to come to an understanding upon the affairs of the Roman Catholic Apostolic Church in the Kingdom of the Netherlands, have named as their Plenipotentiaries, that is to say: His Majesty the King of the Netherlands, his Excellency M. Antoine Philippe Fiacre Ghislain, Count of Celles, Knight of the Royal Order of the Belgian Lion, Member of the Second Chamber of the States-General of the Kingdom, &c.;

And His Holiness the Sovereign Pontiff, his Eminence Monseigneur Maurus Cappellari, Cardinal Priest of the Holy Roman Church, Prefect of the Sacred Congregation of the Propaganda;

The said Plenipotentiaries, assisted, the first, by the Referendary of the First Class to the Council of State, John Peter Ignatius Germain, Councillor of Embassy; and the second, by Monseigneur François Cappacini, Deputy of the Office of Briefs; after having exchanged their full-powers, found to be in good and due form, have agreed to the following Articles:—

Article I. The Concordat of 1801, between the Sovereign Pontiff Pius VII and the French Government, in force in the southern provinces of the Kingdom of the Netherlands, shall be applicable to the northern provinces.

II. Each diocese shall have its chapter and seminary.

III. For the case foreseen by Article XVII of the Convention of 1801, it is decreed:

On every occasion that an archiepiscopal or episcopal see shall become vacant, the chapters of the vacant churches shall take care within one month, counting from the day of the vacancy, to bring to the knowledge of His Majesty the names of the candidates belonging to the clergy of the Kingdom of the Netherlands, whom they may consider fit and proper to govern the archiepiscopal or episcopal church, and in whom they shall have observed the piety, learning, and prudence required in bishops by the laws of the Church.

If by chance amongst the candidates there should be any who would not be sufficiently agreeable to His Majesty, the chapters shall strike out the names of these persons from the lists, which nevertheless should be composed of a sufficient number of candidates to enable the choice of a new archbishop or bishop to be made. The chapters shall then proceed to the canonical election of the archbishop or bishop, whom they shall choose according to the canonical forms in use amongst the candidates whose names have been kept on the list;

and they shall forward within the month, to the Holy Father, the authentic act of this election.

The Sovereign Pontiff, in accordance with the instructions issued by order of Pope Urban VIII, of blessed memory, shall issue the commission to draw up a process of inquiry into the state of the Church and with respect to the qualities of the person destined to be promoted to the archiepiscopal or episcopal church; and if, after having received the result of these inquiries, the Holy Father is of opinion that the qualities required in a bishop from the canons, are combined in the person elected, he shall give him a canonical appointment by letters apostolic, in accordance with established forms, and with the least possible delay.

If, on the contrary, the election has not been conducted canonically, or if the candidate has not been considered by the Holy Father endowed with the above-mentioned qualities, the Sovereign Pontiff, by special favour, shall concede to the chapter the power of proceeding to a fresh election as before, according to canonical forms.

The ratifications of the present Convention shall be exchanged at Rome in the space of sixty days, or sooner, if possible.

Done at Rome, this 18th day of June, 1827.

(Signed)

COMTE DE CELLES.
GERMAIN.

D. MAURUS CARD. CAPPELLARI.
FRANCISCUS CAPACCINI.

Inclosure 4 in No. 4.

Extract from the Constitution of Belgium of 1830.

Article 14. La liberté des cultes, celle de leur exercice public, ainsi que la liberté de manifester ses opinions en toutes matières, sont garanties sauf la répression des délits commis à l'occasion de l'exercice de ces libertés.

Article 15. Nul ne peut être contraint de concourir d'une manière quelconque aux actes et aux cérémonies d'un culte, ni d'en observer les jours de repos.

Article 16. L'Etat n'a le droit d'intervenir ni dans la nomination, ni dans l'installation des ministres d'un culte quelconque, ni de défendre à ceux-ci de correspondre avec leurs supérieurs, et de publier leurs actes, sauf, en ce dernier cas, la responsabilité ordinaire en matière de presse et de publication.

Le mariage civil devra toujours précéder la bénédiction nuptiale, sauf les exceptions à établir par la loi, s'il y a lieu.

Article 117. Les traitements et pensions des ministres des cultes sont à la charge de l'Etat; les sommes nécessaires pour y faire face sont annuellement portées au Budget.

(Translation.)

Article 14. THE freedom of religious worship, that of its public exercise, as well as the liberty of expressing opinions upon all matters, are guaranteed, with the exception of the control of offences committed on the occasion of the exercise of them at freedom.

Article 15. No one can be forced to agree in any manner to the acts and ceremonies of a religious worship, nor to observe days of rest.

Article 16. The State has not the right to interfere in the nomination, or in the installation of the ministers of any particular religion, nor to prevent them

from corresponding with their superiors ; and from publishing their acts, saving in the last case, the usual responsibility in matters of the press and of publication.

Civil marriage should always precede the nuptial benediction, saving the exceptions to be established by law, if there should be occasion.

Article 117. The management and pensions of ministers of religion are at the charge of the State. The sums necessary to meet them are annually carried to the Budget.

DENMARK.

No. 5.

Sir Henry Wynn to Viscount Palmerston.—(Received December 31.)

My Lord,

Copenhagen, December 25, 1850.

WITH reference to your Lordship's despatch on the state of the Roman Catholic Church in this country, I have the honour to inform your Lordship, that not only there is no existing Concordat, but that no communication whatever has, since the Reformation, taken place between the Danish Government and that of Rome. Some years ago a person of the name of Lawent arrived at Hamburgh, charged with a mission from the Pope for the Northern Courts. He proceeded as far as Kiel, from whence, in compliance with orders from hence, he was turned back by the police; nor was he more successful in obtaining admission into Sweden.

The Catholics in the Kingdom and Duchies, though hardly numbering 2,500, have been always objects of jealousy and suspicion, and till the last fundamental law, granting universal exercise of religion, have been very much restricted as to their place of worship. In this city there is only one chapel under the protection and partly supported by the Austrian Government, who are bound by treaty to tolerate in like manner a Protestant chapel in Vienna. The only other towns where Catholic places of worship have hitherto been allowed, are Fredericia and Frederickstadt (where all sects have the same privilege), Altona, and Kiel.

In the case of mixed marriages, the parties have hitherto been obliged to engage that the children proceeding from such marriages should be educated in the Lutheran religion.

I have, &c.

(Signed)

H. W. WILLIAMS WYNN.

FRANCE.

No. 6.

*The Marquis of Normanby to Viscount Palmerston.—(Received
December 27.)*

My Lord,

Paris, December 26, 1850.

I HAVE had several conversations with M. Parieu, the Minister of Public Instruction, on the subject of your Lordship's despatch of the 12th instant, instructing me to procure and transmit to you a copy of any Concordat or equivalent arrangement between the French Government and the Court of Rome, for the governance of the Roman Catholic Church in this country.

The Minister has kindly proposed, as the best means of giving your Lordship the most complete information on the subject, to furnish me with a publication on this subject by M. Dupin, now President of the National Assembly, entitled "*Manuel du Droit Public Ecclésiastique Français.*"

I transmit therefore this copy, with the pages marked, in which the Concordat is contained, as well as other matter to which your Lordship's questions principally applied.

I have, &c.

(Signed) NORMANBY.

Inclosure in No. 6.

Concordat of July 15, 1801.

[See Inclosure 2 in No. 4.]

GREECE.

No. 7.

Mr. Wyse to Viscount Palmerston.—(Received January 20.)

My Lord,

Athens, January 8, 1851.

I HAD the honour to receive on the 5th instant, *viâ* Patras, your Lordship's despatch containing an instruction to report on the relations between the Greek Government and the Court of Rome. I have begged M. Delyanni, His Hellenic Majesty's Minister for Foreign Affairs, to give me the necessary information on the subject, and he has kindly promised to do so; but as the public offices to which reference is necessary are all closed in consequence of the Christmas holidays, he will not be able to furnish me with it in time to be transmitted to your Lordship by this post. He informs me, however, that there is no Concordat or equivalent arrangement now existing between the Greek Government and the Court of Rome for the government of the Roman Catholic Church in Greece, but that it is the intention of the Greek Government to enter upon negotiations for the purpose of securing such arrangement as soon as the measures determining the relations of their church with the Patriarchate of Constantiople, still waiting for the confirmation of the Chambers, shall be fully terminated.

I have, &c.

(Signed) THOS. WYSE.

No. 8.

Mr. Wyse to Viscount Palmerston.—(Received February 10.)

My Lord,

Athens, January 28, 1851.

I HAVE the honour to inclose to your Lordship the answer received yesterday from the Greek Government to your Lordship's queries as to the relations existing between the Greek and Latin Churches in this country, and I regret to find the information communicated is so meagre.

In addition to this official report I have received from other sources (Catholic) on which I think reliance may be placed, the following details.

The Catholic population in Greece has considerably diminished by emigration, and secessions, arising out of mixed marriages and other causes, and is at present principally confined to the islands. It does not at present exceed 30,000 souls. It is most considerable in Syria, Tinos, Naxos, Andros, and Santorin (Thera). The last-named community is almost exclusively Catholic, descendants of the old Venetian and Frank settlers. At Athens there is a congregation principally composed of strangers—Maltese, Italians, and other emigrants; at the Piræus another nearly as considerable, with a handsome church; a third very inconsiderable at Patras, and at Hieraclæa near Athens, a Bavarian Catholic settlement. They are governed by four Bishops, the Archbishop of Naxos, the Bishops of Tinos, Santorin, and Syra; the last also holds the situation of Delegato Apostolico, and from his great age is assisted by a coadjutor. There were formerly Bishops of Attica, Navarino, &c.; but these congregations, rather than dioceses, are now administered by priests. This large number of bishops in proportion to that of their flocks, is ascribable to the ancient position of this country during the French and Venetian occupation found and left undisturbed during the domination of the Turks

The Eastern Church, though counting the remaining 900,000 inhabitants of Greece within its fold, under the Law of 1834 is limited to ten bishops; but as some of the older prelates still remain, and as many of the diocesan subdivisions are still held by bishops, the whole number exceeds fifteen. It must be remembered, however, that the number before the Revolution as well as that of the convents, was very great, and that an effort in the last Parliament was made to raise them to twenty-nine; the bill, however, not having passed into law, the Law of 1834 is still in force, and that under which the number continues to be regulated.

No effort has yet been made by the Greek Government to conclude a Concordat with the Pope, which is easily accounted for by the unsettled state of the Greek National Church; nor has any disposition, but the contrary, been evinced by His Holiness to anticipate in this particular the Greek Government. In this equivocal state of things the Pope directly appoints bishops and coadjutors without the intervention of the Greek Government. The bishop, however, on being appointed, applies for an *exequatur* to the Minister, which has never been refused. Nothing precludes His Holiness from nominating foreigners, but *de facto* the present bishops are either Greek natives or of Greek race. The Bishop of Tinos was born on that island; the Bishop of Santorin is a Smyrniot Greek of Genoese extraction. They are all required to take oath of allegiance to the King and fidelity to the Constitution of Greece.

They are usually supported by collections from their flocks, or by aid from the Propaganda, and receive nothing from the Greek State. They bear the titles of their respective sees without impediment or remonstrance from the Government.

There is nothing in the existing laws to prevent the reception and publication of bulls, briefs, and rescripts from the Pope, but *de facto* the communication with the See of Rome is carried on by private letters without these formalities.

The Catholics rest their right to these privileges on ancient custom and enjoyment guaranteed to them at the time of the Revolution, and which guarantee, on being recalled to the attention of the National Assembly at the period of the formation of the Constitution in 1843, was fully recognized by that body. A further security has been found, it is supposed, in the circumstance of a Catholic Monarch being seated on the Throne of Greece, and the protection given to Catholic interests throughout the Levant by the French Government.

I have, &c.
(Signed) THOS. WYSE.

Inclosure in No. 8.

Information given to Mr. Wyse by the Greek Government.

QUANT à la première et seconde question, il n'existe pas jusqu'à présent de Concordat entre le Gouvernement du Roi et celui du Pape.

Quant à la troisième question, bien qu'il n'y ait rien de définitivement fixé à cet égard, une circonstance s'est présentée cependant depuis l'établissement de la Royauté en Grèce, qui a quelque rapport avec la question de M. le Ministre, relativement à la publication des rescrits du Pape.

Sa Sainteté le Pape de Rome, Grégoire XVI, émit en date du 2 Août, 1834, un diplôme au nom de l'Evêque de l'Eglise d'Occident à Syra, M. Aloys Maria Blancis, en qualité de délégué de Sa Sainteté pour les provinces de l'Etat Grec, où des Evêchés de l'Eglise d'Occident n'avaient pas encore été établis. Sur la demande de ce vénérable Evêque, en date du 27 Avril, 1838, le Gouvernement Royal le reconnut comme tel, par une Ordonnance en date du $\frac{1}{2}\frac{5}{7}$ Mai, 1838, Ordonnance qui fut publiée dans le No. 22 du Journal du Gouvernement.

C'est là tout ce qui existe dans les archives du Ministère des Cultes et de l'Instruction Publique, à ce sujet.

(Translation.)

WITH regard to the first and second question, there is at present no Concordat existing between the Government of the King of Greece and that of the Pope.

With respect to the third question, although there is nothing definitively fixed on that matter, a circumstance has however occurred since the establishment of royalty in Greece, which has some reference to Mr. Wyse's question relating to the publication of the rescripts of the Pope.

His Holiness the Pope of Rome, Gregory XVI, issued on the 2nd of August, 1834, a diploma, appointing M. Aloys Maria Blancis, Bishop of the Western Church at Syra, to be His Holiness's delegate for those provinces of the Kingdom of Greece where bishoprics of the Western Church had not yet been established. On the application of that venerable bishop, under date of the 27th of April, 1838, the Greek Government recognized him in that character by an Ordinance dated the $\frac{1}{2}$ ⁵th May, 1838, which was published in No. 22 of the Government journal.

This is all that exists on this subject in the archives of the Ministry of Public Worship and Instruction.

(Transmitted)

WT-11 refers to the first and second questions. There is no present or future relationship between the Government of the State of Oregon and that of the State of Washington.

With respect to the third question, although there is no formal treaty, it is understood that the two States have a long-standing understanding that the two States will not interfere with the sovereignty of the other. This understanding is reflected in the fact that the two States have not intervened in the internal affairs of the other.

The following is a summary of the history of the State of Oregon. The State of Oregon was established as a territory in 1811, and was admitted to the Union as a State in 1859. The State of Oregon has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Oregon has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Oregon also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Oregon is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Oregon.

The following is a summary of the history of the State of Washington. The State of Washington was established as a territory in 1849, and was admitted to the Union as a State in 1889. The State of Washington has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Washington has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Washington also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Washington is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Washington.

The following is a summary of the history of the State of Idaho. The State of Idaho was established as a territory in 1849, and was admitted to the Union as a State in 1890. The State of Idaho has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Idaho has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Idaho also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Idaho is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Idaho.

The following is a summary of the history of the State of Montana. The State of Montana was established as a territory in 1849, and was admitted to the Union as a State in 1889. The State of Montana has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Montana has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Montana also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Montana is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Montana.

The following is a summary of the history of the State of Wyoming. The State of Wyoming was established as a territory in 1849, and was admitted to the Union as a State in 1890. The State of Wyoming has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Wyoming has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Wyoming also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Wyoming is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Wyoming.

The following is a summary of the history of the State of Utah. The State of Utah was established as a territory in 1849, and was admitted to the Union as a State in 1896. The State of Utah has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Utah has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Utah also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Utah is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Utah.

The following is a summary of the history of the State of Arizona. The State of Arizona was established as a territory in 1849, and was admitted to the Union as a State in 1909. The State of Arizona has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Arizona has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Arizona also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Arizona is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Arizona.

The following is a summary of the history of the State of New Mexico. The State of New Mexico was established as a territory in 1849, and was admitted to the Union as a State in 1906. The State of New Mexico has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of New Mexico has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of New Mexico also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of New Mexico is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of New Mexico.

The following is a summary of the history of the State of Nevada. The State of Nevada was established as a territory in 1849, and was admitted to the Union as a State in 1864. The State of Nevada has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Nevada has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Nevada also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Nevada is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Nevada.

The following is a summary of the history of the State of Colorado. The State of Colorado was established as a territory in 1849, and was admitted to the Union as a State in 1876. The State of Colorado has a long and rich history, and has played a significant role in the development of the Pacific Northwest. The State of Colorado has a diverse economy, with a strong base in agriculture, forestry, and fishing. The State of Colorado also has a strong base in industry, with a particular emphasis on the aerospace and technology sectors. The State of Colorado is a member of the Pacific Northwest Conference, and is also a member of the North American Free Trade Agreement.

This is all that exists on this subject in the history of the State of Colorado.

HANOVER.

No. 9.

The Hon. J. D. Bligh to Viscount Palmerston.—(Received December 20.)

My Lord,

Hanover, December 17, 1850.

I HAD the honour of receiving, yesterday, your Lordship's despatch desiring me to transmit to your Lordship information upon certain points specified in the despatch respecting the governance of the Roman Catholic Church in this kingdom. As I am further desired to do so with as little delay as possible, I lose not a post in forwarding herewith to your Lordship a copy of the Papal bull upon the subject, as inserted by authority amongst the collection of laws; together with the Royal ordinance which granted permission for its publication.

I will send a translation of the above, together with any further information on the subject which I can procure, by another opportunity.

I have, &c.

(Signed) J. D. BLIGH.

No. 10.

The Hon. J. D. Bligh to Viscount Palmerston.—(Received December 31.)

My Lord,

Hanover, December 27, 1850.

WITH reference to the subject of my despatch of the 17th instant, I have the honour of informing your Lordship that the Hanoverian Government has not concluded any positive Concordat with that of Rome; the position of the Roman Catholic Church in this country being regulated and defined by the Papal Bull of March 26, 1824, which I have had the honour of forwarding to your Lordship; and amongst other matters treated of therein, is of course the form to be observed at the investiture of the Roman Catholic bishops in this country.

It is to be remarked, however, that besides what is stated in the bull on this subject, a bishop, elected by the chapter and approved of by the Pope, must also be confirmed by the Sovereign, in virtue of an Article of the Constitution, which declares that "every priest of every denomination, who is not named directly by the King, must obtain the Royal sanction before exercising his functions, a sanction not however to be withheld without weighty reasons."

Also, that every bishop, before he enters upon the duties of his office, must take an oath of allegiance to the King, of which a copy and translation are herein inclosed.

With respect to the publication of Papal bulls in this country, the regulation, according to the Constitution, is as follows:—"Bulls, briefs, rescripts, decisions, or writings of any sort which may be addressed from the Papal Chair, or from foreign Churches or Assemblies, to the Roman Catholic Church in the kingdom, to entire parishes or to individuals, must previously to publication or execution receive the Royal placet, except when they relate to matters purely spiritual." "When they do

relate to spiritual matters, they are to be brought to the knowledge of the King by those to whom is entrusted the supervision of such things."

It has not yet been put to the proof how far the Court of Rome would submit to these Constitutional Regulations, inasmuch as nothing has hitherto issued from thence but what had relation to purely ecclesiastical matters. The only guarantee possessed by the Government that respect will be paid to those Regulations is, that all the Papal edicts are addressed to the bishops, who according to the Constitution cannot publish them without the King's *placet*.

I have the honour of inclosing herewith a second copy, together with a translation, of the bull of which I inclosed a copy to your Lordship in my despatch of the 17th instant.

I have, &c.
(Signed) J. D. BLIGH.

Inclosure 1 in No. 10.

Papal Bull of March 26, 1824, regulating and defining the position of the Roman Catholic Church in Hanover.

Leo Episcopus Servus Servorum Dei ad Perpetuam Rei Memoriam.

IMPENSA Romanorum Pontificum sollicitudo, qua in Universae Catholicae Ecclesiae bonum advigilant, ad ea procuranda ipsos compellit, quibus fidelis Populi commoditati consulatur, ut pro Locorum ac temporum ratione facilius ea pertrahatur, quae sint Divini Cultus, quaeque ad aeternam Animarum salutem valeant conducere. Hinc assiduis ipsi studiis in id semper connisi sunt, ut Dominico Gregi nunquam deessent Pastores, qui eum in salutaria pascua deducerent, et in justitiae semitis retinerant.

Id sane potissimum intendit Praedecessor Noster felicis recordationis Pius Septimus pro cura, quam in Religionis utilitates, ubi maxime de ipsius discrimine metuendum videbatur, enixe impendebat, quando post teterrimas praeteritorum temporum calamitates omnibus in toto Germania Episcopalibus Sedibus opportune prospicere studuit, cogitationesque suas pariter convertit ad duas antiquitate, et dignitate praestantes Ecclesias Hildesimensensem scilicet, atque Osnabrugensem, quae usque a Caroli Magni aevo suam ducunt originem, quaeque nunc intra fines Hannoveriani Regni continentur.

Re propterea collata cum Serenissimo Georgio Quarto Regnorum Magnae Britanniae et Hiberniae unitorum, nec non Hannoverae Rege, ac Brunswicensi, et Luneburgensi Duce laudatus Pontifex, auditis etiam nonnullis ex Venerabilibus Fratribus Nostris Sanctae Romanae Ecclesiae Cardinalibus, de faciliiori ratione deliberandum censuit, quae in tanta rerum conversione occurrebat, unice ad binas illas Episcopales Sedes cum suis Capitulis aliquo pacto conservandas, atque ad dotem ipsis, ac Diaeceses, quo posset aptius praefiniendas.

Cumque nos, meritis licet imparibus, ad Summi Pontificatus apicem Divina sic disponente benignitate fuerimus evocati, in id etiam sedulo incumbere debuimus, ne de illa Catholici Gregis portione minus solliciti videremur. Perspeximus quidem, e Sacrorum Canonum rigore haud mediocriter temperandum fuisse multumque Locorum, temporum, ac Personarum conditioni, aliisque id genus peculiaribus adjunctis tribuendum: Ast cum maxime congruat, Praedecessorem vestigiis inhaerere, atque ad exitum perducere, quae Pius Septimus morte praeventus nequivit Apostolicae Auctoritatis munimine roborare, novum in Hannoveriano Regno Ecclesiarum, et Capitulorum statum, novosque Diaecesium Limites ad eorum normam, quae laudatus Praedecessor duxerat admittenda, constitui necessarium conspeximus.

Habentes igitur pro expressis, ac de verbo ad verbum prolatis iis omnibus, quae praedictarum Ecclesiarum, et Capitulorum anteriora jura, privilegia, ac praerogativas respiciunt, et consensui supplentes eorum omnium, quorum intersit, de Apostolicae potestatis plenitudine, praevia omnimoda suppressione, extinctione et cessatione prioris status earundem Ecclesiarum, et Capitulorum, decernimus, quod ex nunc in posterum

Capitulum Cathedralis Ecclesiae Hildesimensis efformetur ab unica Decanatus Dignitate, et Sex Canonicis, ac quatuor Vicariis seu Praebendis.

Mensae Episcopalis annui redditus erunt in Summa Quatuor mille Thalerorum Monetae Conventionalis, ut infra percipiendorum, ac insuper aedes pro decenti habitatione, si non adsint, noviter Episcopo erunt attribuendae.

Decanus Capituli Cathedralis annuo redditu Thalerorum Mille quingentorum Monetae Conventionalis, duo Canonici Seniores Mille Quatuorcentum, tertius, et quartus Canonicus Mille, postremi duo Canonici Octingentorum, ac quatuor Vicarii, seu Praebendati quatuorcentum ut infra percipiendorum, respective gaudebunt, atque insuper Decanus quilibet Canonicus, et duo Vicarii in ordine priores Domos habebunt unicuique eorum Praebendae assignandas.

Ad hujusmodi autem redditus constituendos praefatus Georgius Rex spopondit intra Quadriennium a data praesentium numerandum, tot Fundos, ac Bona stabilia, Decimas, et Census Reales iisdem Episcopo et Capitulo ea, qua singulis par est quantitate se traditurum, quot praedictis annuis adsignatis redditibus ab omni cuicumque generis onere prorsus liberis, et immunibus respondeant, ita tamen, ut antea per infraescriptum harum, Literarum Exequatorem Apostolicae Sedis iudicio subjiciantur, quo accurate per pensa necessariam ab ipsa adprobationem nanciscantur. Interea vero, donec isthaec reddituum adsignatio in Fundis ac Bonis stabilibus, Decimis, Censibusque Realibus locum habeat, memoratae Summae Episcopo, et capitulo a Thesauro Regio quotannis in pecunia numerata integre, ac libere erunt persolvendae.

Quod vero spectat Ecclesiam Osnabrugensem, quoniam praesentes rerum circumstantiae utramque Ecclesiam dotari posse non sinunt, nova ipsius Osnabrugensis Episcopalis Mensae Capituli, ac Seminarii dotatio suspensa perstet: usquedum necessaria ad id suppetant media, quo casu in Fundis, Bonis stabilibus, Decimis, Censibusque Realibus erit perficienda. Atque tunc Osnabrugensis Episcopus non secus ac Episcopus Hildesimensis annuo redditu Quatuor millium Thalerorum Monetae Conventionalis in suprememoralis bonis gaudebit, Capitulum eodem ac Hildesimensis Capitularium, et Vicariorum numero constabit, paresque redditus annui eisdem respective assignabuntur; nec non Episcopali Seminario ea reddituum annua summa tribuetur, quae necessitatibus, et utilitati Diaecesis valeat respondere.

Cuamdiu autem Episcopatus Osnabrugensis dotatio suspensa manebit, Episcopali Mensae Hildesimensi augmentum Bismille Thalerorum e Bonis Ecclesiasticis in Provincia Osnabrugensi sitis persipiendorum, itemque Decano Hildesimensis Capituli augmentum Tercentum Thalerorum assignabitur, ab ipsis annuatim respective percipiendorum, perdurante tantummodo praedicta dotationis Episcopatus Osnabrugensis suspensione.

Atque interea, ne Dioecesis Osnabrugensis, cui ob eas rationes designari in praesens Antistes nequit, legitimo careat Rei Sacrae regimine, mandamus, ut Venerabilis Frater Carolus de Gruben Episcopus Parentis in partibus infidelium, ejusdemque Osnabrugensis Ecclesiae Suffraganeus Dioecesim ipsam, quoad vixerit, gubernare prosequatur, eoque defuncto Hildesimensis pro tempore Episcopus Dioecesim quoque Osnabrugensem, facultatibus ad id ab Apostolica Sede qualibet vice sibi speciatim delegandis, administrare, suumque Vicarium in Spiritualibus Generalem, qui in Civitate Osnabrugensi resideat, debeat adsciscere. Qui quidem Vicarius, dummodo vere dignus, et idoneus judicatus fuerit, a Romano Pontifice titulo alicujus Episcopalis Ecclesiae in partibus infidelium, servatis omnibus servandis, decorabitur ad hoc, ut Pontificalia in ipsa Civitate, et Dioecesi Osnabrugensi exercere possit, et valeat. Eidem idcirco Vicario Generali Osnabrugensi pro sua, et Episcopalis Curiae dotatione annua persolvenda erit summa Trium millium Thalerorum Monetae Conventionalis a praeclaudati Serenissimi Regis liberali munificentia promissa, quae in ipsius Vicarii Generalis congruam, et in annuam laboribus respondentem mercedem Ecclesiasticorum, qui suam eidem in ea procuracione operam commodabunt erit impendenda.

Donec autem proprium Osnabrugense Seminarium erigi potuerit,

hujusce Diaecesis Clerici alentur, atque educabuntur in Episcopali Seminario Hildesimensi, cui propterea bona, ac redditus, quibus actu gaudet, integre conservabuntur: quod idem dictum volumus de bonis ac redditibus in tuitionem Aedium Sacrarum, tam Hildesimensis, quam Osnabrugensis, atque in sumptus Divini Cultus, ac Ministrorum mercedem assignatis.

Quotiescumque vero aliqua ex supralictis Sedibus Episcopalibus, tam Hildesimensi, quam Osnabrugensi, quae ambo perpetuis futuris temporibus immediate subjectae erunt Apostolicae Sedi, vacaverit, illius Cathedralis Ecclesiae Capitulum intra mensem a die vacationis computandum Regios Ministros certiores fieri curabit de nominibus Candidatorum e Clero totius Regni selectorum, quorum unusquisque trigesimum suae aetatis annum ad minimum compleverit, et indigenatu praeditus sit, studia in Theologia, et Jure Canonico cum laude absolverit, curam Animarum, aut munus Professoris in Seminariis egregie exercuerit, aut in administrandis Negotiis Ecclesiasticis excelluerit, optima fama gaudeat, sana doctrina, et integris sit moribus. Ac si forte aliquis ex Candidatis ipsis Gubernio sit minus gratus, Capitulum e Catalogo cum expunget, reliquo tamen manente sufficiente candidatorum numero, ex quo novus Episcopus eligi valeat. Tunc vero Capitulum ad Canonicam Electionem in Episcopum unius ex Candidatis, qui supererunt, juxta consuetas formas procedet, ac documentum Electionis in forma authentica intra Mensem ad Summum Pontificem perferri curabit.

Confectio autem Processus informativi super qualitatibus Promovendorum ad regimen Episcopali Ecclesiarum Regni Hannoveriani, vel Episcopo alterius Sedis non vacantis, vel Ecclesiastico illius Regni viro in Dignitate constituto a Romano Pontifice committetur, et ad formam instructionis ab Apostolica Sede in singulis casibus transmittendae exarabitur, quo accepto Summus Pontifex, si compererit Promovendum instructum iis dotibus, quas Sacri Canones in Episcopo requirunt, eum, quocitius fieri poterit, juxta statutas formas per Apostolicas Litteras confirmabit.

Si vero, aut electio minime fuerit Canonice peracta, aut Promovendus praedictis dotibus instructus non reperiatur, ex speciali gratia indulgemus, quod Cathedrale Capitulum ad novam Electionem, ut supra, Canonica methodo valeat procedere.

Novus Episcopus ab altero Regni Episcopo jam consecrato, atque facultatem expresse ad id ab Apostolica Sede habente, assistentibus duobus aliis Episcopis ad hoc rogatis, et in eorum defectum duobus Prae-latis Pontificalium usum habentibus, vel his quoque deficientibus duobus Praesbyteris e Regni Clero in Ecclesiastica Dignitate constitutis, consecrabitur.

In Capitularium numerum alii non admittentur, nisi qui indigenatu, et qualitatibus a Sacris Canonibus requisitis praediti sint, triginta saltem annorum aetatem habeant, et in Praesbyteratus Ordine sint constituti, quique in exercenda cura Animarum, vel in alio obeundo Ecclesiastico Ministerio, vel Professoris munere in Seminario Episcopali conspicuus se se reddiderint.

Quotiescumque vero Decanatus, aut Canonicatus, vel Vicariatus in Cathedralibus vacaverit, Episcopus, et Capitulum alternis vicibus intra sex hebdomadas a die vacationis proponent quatuor candidatos supra-enunciatis praeditos qualitatibus. Quod si forte aliquis ex ipsis Candidatis Gubernio invisus, aut suspectus sit, id quamprimum Episcopo respective, aut Capitulo indicari poterit, ut expungatur: tunc autem Episcopus ad collationem Decanatus, Canonicatus, aut Vicariatus, vel respective Capitulum intra quatuor hebdomadas procedet ad nominationem unius ex Personis Gubernio non invisis, nec suspectis, cui Episcopus Canonicam dabit Institutionem.

Ad Novam nunc procedendo Circumscriptionem Dioecesium Episcopatus Hildesimensis, qui actu a Venerabili fratre Francisco Egone a Furstenberg moderno ejus Episcopo gubernatur, et Osnabrugensis, qui suo a pluribus annis orbatus Pastore a supramemorato Carolo Episcopo Parensi ac ejusdem Osnabrugensis Ecclesiae Suffraganeo cum Apostolicis sibi delegatis facultatibus administratur, praevia dismembratione, separatione, ac immutatione a quorumcumque Metropolitanorum, Episcoporum,

seu Ordinarium, ac Vicariorum Apostolicorum jurisdictione, superioritate, ac potestate omnium, et singularum Civitatum, Terrarum, ac Paraeciarum intra Regni Hannoveriani limites comprehensarum decernimus, prout a Pio VII Praedecessore Nostro designatum fuerat, ut Regnum ipsum in duas omnino Diaeceses a cursu Fluminis Visurgis vulgo "Weser," nuncupati tanquam suis limitibus separatas dividatur, ita ut Paraeciae ad dexteram ejusdem Fluminis partem sitae Diaecesi Hildesimensi, Paraeciae autem ad sinistram Visurgis Ripam positae Diaecesi Osnabrugensi respective assignentur, prout sequitur, videlicet :

Dioecesis Hildesimensis efformabitur a sequentibus quinquaginta quinque Parochialibus Ecclesiis ad ipsam Hildesimensem Dioecesim jam pertinentibus, nempe, Achtum, Adlum, Ahrbergen, Gross-Algermissen, Asel, Bavensedt, Bettmar, Bilderlahe, Bokenem, Bolzum, Borsum, Detfurth, Dingelbe, Dinklar, Dorstadt, Gross-Düngen, Emmerke, Gross-Giesen, Grasdorf, Grauhoff, Gronau, Goslar, Harsum, Heinig, Ecclesiae Cathedralis, S. Godehardi, S. Magdalенаe, SSmae Crucis, in Civitate Hildesimensi sitae, Hennekenrode, Himmelsthür, Hohenhameln, Hunnesrück, Itzum, Lamspringe, Liebenburg, Marienrode, Moritzberg, Ottbergen, Peine, Poppenburg, Ringelheim, Ruthe, Schladen, Söder Söhre, Sorsum, Sottrum, Steinbrück, Vienenburg, Gross-Vörste, Westfeldt, Wiedelah, Winzenburg, Wöhle, Woldenberg ; Atque insuper a viginti Parochialibus, ac tresdecim Curatis succursalibus nuncupatis Ecclesiis in Provincia Eichsfeldiae positis, et antiquae Metropolitanae Ecclesiae Moguntinae, seu Ratisbonensi olim subjectis, quae in praesentiarum a Venerabili Fratre Carolo Friderico de Wendt, Episcopo Basinopolitano in partibus Infidelium, ac Hildesiensis Ecclesiae Suffraganeo uti Vicario Apostolico administrantur, videlicet : Paraecia, Duderstadt, cum tribus succursalibus Ecclesiis, Gerblingerode, Tifflingerode et Westerode, nuncupatis, ac Paraeciis, Breitenberg, Desingerode, cum duabus succursalibus Ecclesiis, Werxhausen, et Esplingerode, denominatis, necnon Paraeciis, Immingerode, Nesselröden, Seulingen, Seeburg, Bernshausen, cum succursali Germershausen, atque Paraeciis, Lindau, Bilshausen, Crebeck, cum succursali Bodensee, et Parochialibus Ecclesiis, Wollbrandshausen, Gieboldehausen, Rollshausen, Rudershausen, Rhumspringe, cum succursali Hilkerode : Paraecia quoque, Fuhrbach, cum duabus succursalibus, Langenhagen, et Brochthausen, necnon Paraecia, Oberfeld, cum succursali, Mingerode : Paraecia quoque, Noerthen, cum duabus Ecclesiis succursalibus, ac Paraecia Renshausen ; Denique a tribus Paraeciis, Hannover, Gottingen, et Celle, vulgo nuncupatis, quae hactenus a supradicto moderno Episcopo Hildesimensi Missionum Septemtrionalium Vicario Apostolico fuerunt spiritualiter gubernatae.

Dioecesis Osnabrugensis constabit ex sequentibus Decanatibus, videlicet, ex Decanatu Ecclesiae Cathedralis, et Civitatis Osnabrugensis septem continente Paraecias, quarum duae reperiuntur in civitate ipsa Osnabrugensi, reliquae vero in ipsius territorio, nuncupanturque, Bellm, Bissendorf, Rülle, Schleddehausen, et Wallenhorst, ex Decanatu Iburg, vulgo denominato septem pariter complectente Paraecias, ut sequitur nuncupatas, id est, Borgloh, Glandorf, Glane, Hagen, Iburg, Laer, et Oesede ; ex Decanatu Fürstenau, undecim sequentes continente Paraecias, nempe Berg, Fürstenau, Merzen, Neuenkirchen, Schwagstorf, Voltlage, Alfhausen, Ankum, Badbergen, Berssenbrück, et Quakenbrück : ex Decanatu Vörden, nuncupato, qui undecim sequentes complectitur Paraecias, videlicet, Lage, Malgarten, Vörden, Bomte, Hunteburg, Osterkappeln, Sanctae Annae, Gesmold, Melle, Riemsloh, Wellingholthausen ; necnon partes illas Paraeciarum Damme et Neuenkirchen, quae intra limites Regni Hannoveriani reperiuntur ; ex Archipraesbyteratu inferioris Comitatus Lingen, duodecim continente Paraecias, videlicet, Bawinkel, Boesten, Freren, Lengerich, Messingen, Schapen, Thuine, Baccum, Bramsche, Lingen, Plantlünne et Spelle ; Nec non ex viginti septem Paroeciis in Districtu de Meppen comprehensis, et ad Monasteriensem Diaecesim jam pertinentibus, videlicet, Aschendorf, Bersen, Bokeloe, Börger, Dörpen, Emsbüren, Haren, Haselünne, Heede, Herzlake, Hesepe, Holte, Laten, Lorup, Meppen, Papenburg, Ecclesia Principalis ; ac alia ejusdem nominis Ecclesia Succursalis, Rhede, Ruttenbrock, Steinbild, Sögel, Schepsdorf, Salzbergen, Twist, Twistringen, Werlte, et Wesuwe.

Tres quoque adjunguntur Paroeciae in Frisia Orientali positae, et praefatae Monasteriensi Diaecesi jam subjectae, quae, Emden, Leer et Norden vulgo nuncupantur. Et postremo Octo Paroeciae quae reperiuntur in Comitatu de Bentheim, actu a Regno Hannoveriano in temperalibus dependentes, et hactenus a praefato Monasteriensi Episcopo gubernatae, nempe, Bentheim, Brandlecht, Emblicheim, Laarwalde, seu Wolda, Nordhorn, Neuenhaus, Schüttorff, et Wietmarschen.

Praedictos vero Decanatus, Paroecias et Loca Episcopis pro tempore Hildesimensi, et Osnabrugensi pro eorum respective Diaecesibus attributa, eorumque Incolas utriusque sexus, tam Clericos, quam Laicos usdem Ecclesiis, eorumque Praesulibus pro suis respective Territorio, Diaecesi, Clero, et Populo perpetuo assignamus, et in spiritualibus omnimode subicimus, proptereaue statim ac praesentis Litterae plenariae fuerint executioni mandatae, omnis Antiquorum Metropolitanorum Ordinariorum Vicariorum Apostolicorum, seu Administratorum jurisdictio in supradictis locis, Decanatibus, et Paraeiis cessare debet, omnesque tunc facultates in Locis, et Partibus ab eorum jurisdictione subtractis nullius roboris, vel momenti amplius futuras declaramus.

Ut insuper commoditati Populorum sic ut supra respectivis Episcopis subjectorum consulatur, praescribimus, ut omnia, et singula documenta respicientia Ecclesias, et Loca ut supra dismembrata, et de novo applicata a veteribus Cancellariis extrahi, et Cancellariis Diaecesium, quibus erunt incorporata, debeant opportuna forma tradi, atque in iis perpetuo asservari.

Habita modo ratione reddituum Episcopalis Mensae Hildesimensis de more taxari in Florenis septingentis quinquaginta sex auri de Camera, et hujusmodi Taxam in libris Camerae Nostrae Apostolicae describi mandamus. Quod vero spectat Episcopalem Mensam Osnabrugensem, quando locus factus fuerit illius dotationi ut supra enunciatae, Ecclesiam ipsam de more taxari in Florenis sexcentum sexaginta sex auri de Camera cum duobus tertiis, eandemque Taxam in Libris Apostolicae Camerae similiter describi mandamus.

Denique, ut cuncta a Nobis ut supra disposita rite ad suum perducantur effectum, spradictum Franciscum Egonem Episcopum Hildesimensem in harum Litterarum Apostolicarum Exequutorem cum omnibus, et singulis necessariis, et opportunis facultatibus deputamus, ut, praeviis respectivis dotationibus in valida forma perficiendis, ad uniuscujusque Ecclesiae cum suo Capitulo novam Ordinationem, ac respectivi Territorii Diaecesani Circumscriptionem procedere, aliaque omnia ut supra ordinata peragere, et statuere, delegata sibi Apostolica Auctoritate libere, ac licite possit, et valeat; atque ulterius ipsi Francisco Egoni Episcopo facultatem pariter tribuimus, ut ad plenam rerum omnium in locis praesertim ab ejus residentia remotis executionem quamcumque Personam, seu Personas in Ecclesiastica Dignitate constitutam, vel constitutas subdelegare, ac tam ipse, quam Persona, vel Personae ab eo sic subdeleganda, vel subdelegandae super quacumque oppositione in actu Executionis hujusmodi quomodolibet forsitan oritura, servatis tamen de jure servandis, etiam definitive, et quacumque appellatione remota pronunciare, libere item, ac licite possint, et valeant, ac quilibet eorum respective possit, et valeat.

Eidem insuper Francisco Egoni Episcopo expresse injungimus, ut exempla singulorum Actorum, tam per se, quam suos Subdelegatos in harum litterarum executionem conficiendorum, intra Quadrimestrem ab ipsarum expleta executione ad Apostolicam Sedem in authentica forma transmittat in Archivio Congregationis rebus Consistorialibus praepositae de more asservanda.

Praesentes autem Litteras, et in eis contenta ac statuta quaecumque, etiam ex eo quod quilibet in praemissis, vel in eorum aliquo jus, aut interesse habentes, vel quomodolibet etiam in futurum habere praetendentes, cujusvis status, ordinis, conditionis, et praeminentiae ac etiam specifica, expressa, et individua mentione digni sint, illis non consenserint, seu quod aliqui ex ipsis ad praemissa minime vocati, vel etiam nullimodo, aut non satis auditi fuerint, sive ex qualibet etiam laesionis, vel alia juridica, privilegiata, ac privilegiatissima causa, colore, praetextu, et capite, etiam in corpore juris clauso, nullo unquam tempore de subreptionis, vel obreptionis,

aut nullitatis vitio, seu intentionis Nostrae, vel interesse habentium consensus, aliove quolibet defectu quantumvis magno inexcogitato, substantiali, ac substantialissimo, sive etiam ex eo, quod in praemissis solemnitates et quaecumque alia forsitan servanda, et adimplenda, minime servata et adimpleta, seu causae, propter quas praesentes emanaverint, non sufficienter adductae, verificateae et justificatae fuerint, notari, impugnari, aut alias infringi, suspendi, restringi, limitari, vel in controversiam vocari, seu adversus eas restitutionis in integrum, aperiitionis oris, aut aliud quodcumque juris, vel facti, aut justitiae remedium impetrari, aut sub quibusvis contrariis Constitutionibus, Revocationibus, Suspensionibus, limitationibus, derogationibus, modificationibus, decretis, aut declarationibus generalibus, vel specialibus quomodolibet factis minime posse comprehendi, sed semper ab illis exceptas esse, et fore, ac tamquam ex Pontificiae providentiae Officio, certa scientia, et potestatis plenitudine Nostrae factas, et emanatas omnimoda firmitate perpetuo validas, et efficaces existere, et fore, suosque plenarios et integros effectus sortiri et obtinere, ac ab omnibus, ad quos spectat et spectabit quomodolibet in futurum, perpetuo et inviolabiliter observari, ac supradictarum Ecclesiarum Episcopis, et Capitulis, aliisque, quorum favorem praesentes Nostrae Litterae concernunt, perpetuis futuris temporibus plenissime suffragari debere, eosdemque super praemissis omnibus, et singulis, vel illorum causa ab aliquibus quavis auctoritate fungentibus quomodolibet molestari, perturbari, inquietari, vel impediri, neque ad probationem, seu verificationem quorumcumque in eisdem praesentibus narratorum nullatenus unquam teneri, neque ad id in Judicio vel extra cogi, seu compelli posse; Et si secus super his a quoquam quavis auctoritate scienter, vel ignoranter contigerit attentari, irritum, et prorsus inane esse, ac fore volumus, atque decernimus.

Non obstantibus de jure quaesito non tollendo de suppressionibus committendis ad partes vocatis, quorum interest, aliisque Nostris et Cancellariae Apostolicae regulis, nec non dictarum Ecclesiarum etiam confirmatione Apostolica, vel quavis firmitate alia roboratis, statutis, et consuetudinibus, etiam immemorabilibus, privilegiis quoque, Indultis, et Concessionibus quamvis specifica, et individua mentione dignis, omnibusque, et singulis Apostolicis, ac in Synodalibus, Provincialibus, et Universalibus Conciliis editis, specialibus, vel generalibus Constitutionibus, et Ordinationibus. Quibus omnibus, et singulis, eorumque totis tenoribus ac formis, etiamsi specialis, specifica, et individua mentio, seu quaevis alia expressio habenda, aut aliqua alia exquisita forma ad hoc servanda foret, illorum tenores ac si de verbo ad verbum nil penitus omisso, et forma in illis tradita observata inserti forent, praesentibus pro expressis habentes ad praemissorum effectum latissime, et plenissime, ac specialiter et expresse derogamus, et derogatum esse declaramus, caeterisque contrariis quibuscumque.

Volumus item, ut harum Litterarum Nostrarum Transumptis etiam impressis Manu tamen alicujus Notarii publici subscriptis, et sigillo Personae in Ecclesiastica Dignitate constitutae munitis, eadem prorsus fides adhibeatur, quae ipsis praesentibus adhiberetur, si forent exhibitae vel ostensae.

Nulli ergo omnino hominum liceat hanc paginam Nostrae Suppressionis, Extinctionis, Annulationis, Dismembrationis, Separationis, Unionis, Circumscriptionis, Assignationis, Indulti, Subjectionis, Suppletionis, Declarationis, Deputationis, Commissionis, Mandati, Decreti, Derogationis, et Voluntatis infringere, vel ei ausu temerario contraire: Si quis autem hoc attentare praesumpserit, Indignationem Omnipotentis Dei, ac Beatorum Petri, et Pauli Apostolorum ejus se noverit incursurum.

Datum Romae apud Sanctam Mariam Majorem Anno Incarnationis Dominicae Millesimo Octingentesimo Vigesimo Quarto Septimo Kalendas Aprilis Pontificatus Nostri Anno Primo.

A. G. CARD. PRO-DATARIUS.

J. CARD. ALBANUS.

Visa de Curia D. TESTA.

Loco X Plumbi.

F. LAVIZZARIUS.

(Translation.)

Leo, Bishop, servant of the servants of God for everlasting memory.

THE signal care with which the Roman Pontiffs watch over the welfare of the whole Roman Church compels them to do everything whereby the good of the faithful people may be promoted, in order that they may, according to localities and times, be gained over more readily to the worship of God, and to all that may be conducive to promote the eternal salvation of their souls. Wherefore their most anxious solicitude has ever been directed towards this one point, that the flock of the Lord should never be wanting in such shepherds as would lead them into salutary pasturages, and keep them in the path of righteousness.

This indeed has been especially the object of our predecessor Pius the Seventh, of glorious memory, when, moved by the care he so zealously bestowed on the good of religion, especially when he thought it in danger, he was, subsequent to the most fearful calamities of foregoing times, anxiously solicitous to provide for all the episcopal sees in Germany in the most eligible manner, and at the same time directed his considerations upon two churches distinguished by age and dignity, viz.: that of Hildesheim and Osnabruck, which derive their origin from the times of Charles the Great, and are at present comprised within the boundaries of the Kingdom of Hanover.

After some previous negotiations, therefore, with the most illustrious Prince, George the Fourth, King of the United Kingdom of Great Britain and Ireland, as also King of Hanover and Duke of Brunswick and Lüneburg, and after having consulted with some of our reverend brethren, Cardinals of the Holy Roman Church, the aforelauded Pope was of opinion that, in consequence of the great subversion of the state of things, it only remained to consult on the most practicable points, namely, only and solely how to preserve by any means those two episcopal sees with their chapters, and to determine in the most eligible manner, both their dotations and their dioceses.

And as we now, although unequal in merit, by the Providence of Divine Grace, have been exalted to the highest Pontificate, we could not but direct our solicitude likewise towards this subject, lest it should have the appearance as if we were less anxious about those portions of the Catholic herd. And though we are fully aware that the rigour of the holy ordinances of the Church has in no small degree abated, and much more to be yielded with respect to situation, circumstances of place, time, and persons, and other such similar circumstances, yet, as it is especially becoming to follow the footsteps of our predecessors, and to accomplish what Pius VII, being prevented by death, could not confirm by the authority of his holy office, we have considered it necessary to ordain that in the Kingdom of Hanover, a new organization of the church and chapters and a new limitation of the dioceses should take place in accordance with the views of what our aforelauded predecessor had thought admissible.

Wherefore, and whilst we consider as expressly mentioned and verbally stated here, everything regarding the prior rights, privileges, and prerogatives of the churches and chapters before named, and supplying also here the assent of all those who have an interest in the case, we decree by virtue of our apostolic plenary power, that after the previous entire abolition, extinction, and annihilation of the former state of the aforementioned churches and chapters, the Chapter of the Cathedral Church at Hildesheim shall from this time forward only consist in one single dignity, viz.: the deanery, six canonships, and four vicaries or livings.

The annual revenue of the Bishop shall amount to 4000 thaler convention money, the manner of drawing which to be regulated at a future period. Independent of this, he is to be provided with a house for a decent dwelling; and if such be not existing, care must be had that he is furnished with one.

To the Dean of the Chapter are assigned 1500 thaler; to the two senior canons 1400 thaler each; to the third and fourth canons 1000 thaler each; to the two junior canons 800 thaler each; and to the

four vicars or beneficiaries 400 thaler each, all in convention money, and to be drawn in the manner subsequently to be determined on. Besides which, the Deacon, each of the canons, and the two vicars who in the order of succession are the first, shall be furnished with houses, which shall be assigned to each of the prebends.

In order, however, to substantiate the said revenues, King George aforesaid has given his promise to grant to the Bishop and the Chapter, within the space of four years from the date of the present brief, in real estates, immoveables, tithes, and ground-rent, to the extent due to each of the parties, and to such an amount as is requisite to satisfy all and every one according to the above designations of the yearly revenues assigned to them respectively, and which are to be wholly exempt from every kind of onera. The act of delivery of the estates, however, is to be previously subjected to the investigation of the Apostolic See by the executor of this brief, who is to be named afterwards, in order that it may, after a careful examination, receive the required confirmation. Meanwhile and until the assignment of the revenues from real estates, grounded property, tithes, and ground-rent has taken place, the above-stated revenues (incomes) shall be fully paid yearly in ready-money to the Bishop and Chapter out of the Royal treasury, free from any expense.

Regarding the church of Osnabruck, the present juncture not permitting the endowment of both churches, a new dotation of the episcopal table of the Chapter and Seminary of the Bishopric of Osnabruck shall be deferred till the requisite means to that effect are on hand, in which case such dotation is likewise to be effected in real estates, grounded property, tithes, and ground-rent; and then the Bishop of Osnabruck shall, equally with the Bishop of Hildesheim, receive an annual income of 4000 thaler convention money out of the aforesaid estates; the Chapter, like that of Hildesheim, shall consist of the same number of canons and vicaries, and the same annual incomes are to be assigned to them. The episcopal seminary to receive so much in yearly revenues as the exigences and the interests of the diocese may require.

So long, however, as the dotation of the Bishopric of Osnabruck is deferred, a yearly augmentation of income of 2000 thaler, which is to be raised out of the spiritual estates situated within the Bishopric of Osnabruck, shall be assigned for the episcopal table at Hildesheim, and a yearly increase of revenues, to the amount of 300 thaler, to the Dean of the Hildesheim Cathedral, which augmentations, however, are only to continue so long as the dotation of the Bishopric of Osnabruck shall be suspended.

In order, however, that the Diocese of Osnabruck, to which for the reasons alleged a Bishop cannot as yet be allotted, may not be deprived of a legitimate spiritual rule, we do hereby ordain that the venerable brother Charles de Gruben, Bishop of Paros *in partibus infidelium* and suffragan of the same church of Osnabruck, shall continue during his lifetime to govern the same diocese in his own person. After his demise the Bishop of Hildesheim for the time being shall also administer the Diocese of Osnabruck, by virtue of especial powers granted to him by the Apostolic See to that effect, and should appoint a vicar-general for the spiritualities, who shall be bound to take up his residence in the town of Osnabruck.

To this Vicar-General, when having been found worthy and duly qualified, and everything relating to this transaction having been duly observed, the title of any of the episcopal churches *in partibus infidelium* shall be conferred by the Pontiff of Rome, with the view that he may be enabled to exercise the Pontifical functions within the town itself as also in the said diocese. For which purpose the identical Vicar-General of Osnabruck shall be paid, as a dotation for himself and for the episcopal court (curia), an annual sum of 3000 thaler convention money, the payment of which has been kindly promised and assured by the liberality of the lauded illustrious King aforesaid, and of which, partly the maintenance of the vicar-general himself, and partly the yearly remuneration of those divines who are aiding him in his spiritual office, will have to be covered.

Until circumstances shall admit of the establishment of a particular seminary at Osnabruck, the ecclesiastics of that diocese shall be maintained and trained in the episcopal seminary at Hildesheim, for which purpose the estates and revenues which it is at present possessed of shall remain attached to it without any abridgment whatever. The same also applied to the estates and revenues which are allotted to the two Bishoprics of Hildesheim and Osnabruck, for the preservation of the churches, the covering of the expenses of the divine service, and for the salaries of the ministers.

Whenever any of the aforesaid episcopal sees at Hildesheim and Osnabruck, both of which shall be subject for all times to come to the Papal See, become vacant, the chapter of the vacated cathedral shall within the space of a month, reckoning from the day of vacation, submit to the Royal Ministers a list of the candidates who have been elected from among the clergy of the whole kingdom.

Each of the elected candidates shall have passed the age of thirty years and be enjoying the privileges of a natural subject of the country; he is further to have accomplished his studies of divinity and the canon laws with honour, and to have either exercised the curacy, or the office of a professor of the seminaries with applause, or distinguished himself in the management of the ecclesiastical functions; he ought, furthermore, to enjoy an unspotted reputation, and with regard to his doctrine and to his moral conduct be perfectly blameless.

Should the one or the other of the elected candidates on the list be less agreeable to the Government, the chapter is to cancel his name; still there must be a sufficient number of candidates left from which the new bishop may be elected.

The chapter will then proceed, under the prescribed observances, to the canonical election of one of the candidates remaining on the list for a bishop, and will take care that the election deed be forwarded in an authentic form to the Pope, within a month's time.

The instituting of the information proceedings (*processus informativi*) as to the qualifications of the aspirants to the government of the episcopal churches in the Kingdom of Hanover, is to be committed by the Roman Pontiff either to the bishop of the other not vacated see or to a clergyman in the kingdom who is invested with an ecclesiastical dignity, and to be executed according to the directions contained in the letter of service which will be transmitted by the Apostolic See in each singular case.

When it appears evident to the Pope, from the documents laid before him, that the candidate elected is verily endowed with the required qualifications of a bishop, according to the designation of the holy ecclesiastical tenets, he will give him the confirmation as soon as can be, by apostolic letters, conformably to the existing usage.

Should, however, the election have been either no ways canonically effected, or should the candidate elected prove deficient in the aforementioned qualifications, then we will herewith concede to the chapter, as a particular favour, the right of proceeding to a new election in the canonical mode and in the manner previously pointed out.

The consecration of the new bishop shall be performed by the other bishop of the kingdom who is already consecrated, and who will receive an express power to that effect from the Apostolic See. He is to be assisted by two other bishops particularly requested for that purpose; but in default of such, two other mitred prelates; and if these also should fail, two other priests from the ecclesiastics in the kingdom who are invested with a sacerdotal dignity are to supply their place.

Among the number of the capitulars none shall be admitted but such as are in possession of the privileges of natural-born subjects of the kingdom, and of the qualifications required by the tenets of the Holy Church, have attained the age of thirty years at least, and have received the consecration of a priest; who further have distinguished themselves either in the exercise of their sacerdotal calling, or in the administration of any other ecclesiastical function, or in the exercise of the professorship in the episcopal seminary.

Whenever the place of dean, canon, or vicar shall be vacant, the

bishop and the chapter alternately shall, within six weeks, reckoned from the time of the vacation, submit a list of four candidates who are endowed with the required qualifications to the Royal Ministry. If any one of these candidates be less agreeable or objectionable to the Government, it may be signified to the bishop or chapter relatively as soon as possible, with the view of having him cancelled from the list; whereupon either the bishop or the chapter, as the case may be, must proceed within four weeks to the nomination to the deanery, canonry, or vicary, and appoint an individual that may not be displeasing or objectionable, on whom the bishop will then confer the canonical investiture.

In passing over now to a new designation of the limits of the dioceses, as well of the Bishopric of Hildesheim, over which at present the venerable brother Franz Egon de Furstenberg, its present bishop, presides, as also of the Bishopric of Osnabruck, which has been for several years deprived of its shepherd, being administered by the before-mentioned Charles, Bishop of Paros, suffragan of the identical church of Osnabruck, by dint of the apostolic powers given him, we do hereby ordain that, after the previous partition and separation of all and every town, district, and parsonages within the confines of the Kingdom of Hanover from the jurisdiction, supremacy, and power of all and every archbishop, bishops, or ordinaries, and vicars apostolic, the said kingdom, as had been already determined on by our predecessor Pius VII, shall altogether be divided into two dioceses, circumscribed and separated by the course of the river called Weser, so that the parsonages lying on the right side of that river are to be allotted to the Diocese of Hildesheim; whereas the parsonages situated on the left bank of the Weser are to be included in the Diocese of Osnabruck, that is to say, in the following manner:

The Hildesheim Diocese shall in the first place comprise the following fifty-five parish churches which are already belonging to it, viz.: Achum, Adlum, Ahrbergen, Gross-Algermissen, Asel, Bavenstedt, Bettmar, Bilde-lahe, Bokenem, Bolzum, Borsum, Detfurth, Dingelde, Dinklar, Dorstadt, Gross-Dungen, Emmerke, Gross-Giessen, Grasdorf, Grauhoff, Gronau, Goslar, Harsum, Heinig, the cathedral parsonage St. Godehard, St. Magdalene, St. Crucis, the latter four parsonages being in the town of Hildesheim; Hennekenrode, Himmelsthür, Hohenhameln, Hunnesrück, Itzum, Lamspringe, Liebenburg, Marienrode, Moritzberg, Ottbergen, Peine, Poppenburg, Ringelheim, Ruthe, Schladen, Soder, Sohre, Sorsum, Sottrum, Steinbruck, Vienenburg, Gross-Vorste, Westfeldt, Wiedelah, Winzenburg, Wohle, and Woldenberg. Besides the following twenty parsonages and thirteen subsidiary parsonages in the Province Eichsfeld, which formerly were subject to the ancient church of the Archbishop of Mayence or Ratisbonne, and are at present administered by the venerable brother Charles Frederic de Wendt, in his quality as Vicar Apostolic, Bishop of Basinopol *in partibus infidelium*, and suffragan of the Hildesheim church, namely: the parsonage of Duderstadt, together with the three subsidiary parsonages Gerblingerode, Tifflingerode, and Westerode; the parsonages Breitenberg and Desingerode, with the two subsidiary parsonages Werxhausen and Esplingerode; the parsonages Immingerode, Nesselroden, Seulingen, Seeburg, and Bernshausen, with the subsidiary parsonage Germershausen; the parsonages Lindau, Bilshausen, and Crebeck, with the subsidiary parsonage Bodensee; the parsonages Wollbrandshausen, Gieboldehausen, Rollshausen, Rudershausen, and Rhumspringe, with the subsidiary parsonage Hilkerode; the parsonage Fuhrbach, with the two subsidiary parsonages Langenhagen and Brochthausen; the parsonage Oberfeld with the curacy Mingerode; the parsonage Noerthen, with two subsidiary parsonages; the parsonage Renshausen; and finally the three parsonages Hannover, Gottingen, and Celle, over which the above-named Bishop of Hildesheim has hitherto exercised the spiritual control as vicar apostolic of the northern missions.

The Osnabruck Diocese is to consist of the following deaneries, viz.: the deanery of the cathedral church and of the town of Osnabruck, comprising seven parsonages, two of which are in the town of Osnabruck itself, the rest in the bailiwick of the same name; they are: Bellm, Bissendorf, Rulle, Schleddehausen, and Wallenhorst; the deanery of Iburg

equally composed of seven parsonages, viz.: Borgloh, Glandorf, Glane, Hagen, Iburg, Laer, and Oesede; the deanery of Furstenau, to which the following eleven parsonages belong, namely: Berge, Furstenau, Merzen, Neuenkirchen, Schwagstorf, Voltlage, Alfhausen, Ankum, Badbergen, Berssenbruck, and Quackenbruck; the deanery Vorden, containing the following eleven parsonages, viz.: Lage, Malgarten, Vorden, Bomte, Huntburg, Osterkappeln, St. Anne, Gesmold, Melle, Riemsloh, Wellingholthausen, and likewise those portions of the parsonages of Damme and Neuenkirchen, which are situated within the limits of the Kingdom of Hanover. Further of the archpresbytery of the lower county of Lingen, to which appertain twelve parsonages, viz.: Bawinkel, Boesten, Freren, Lengerich, Messingen, Schapen, Thuinc, Baccum, Bramsche, Lingen, Plantlunne and Spell. Likewise twenty-seven parsonages in the circuit of Meppen, and which till now did belong to the diocese of Munster, viz.: Aschendorf, Bersen, Bokeloe, Borger, Dorpen, Emsbuhren, Haren, Haselunne, Heede, Herlake, Hesepe, Holte, Laten, Lorup, Meppen, Papenburg, of the metropolitan church, beside a subsidiary parsonage of the same name; Rhede, Ruttenbrock, Steinbild, Sogel, Schepsdorff, Salzbergen, Twist, Twistringen, Werlte, and Wesuwe. To which are still to be added three parsonages situated in East Friesland, and which up to the present time have been subjected to the diocese of Munster, viz.: Emden, Leer, and Norden. And in conclusion, eight parsonages lying in the county of Bentheim, depending at present, secularly considered, on the Kingdom of Hanover, and which have been hitherto ruled by the Bishop of Munster, viz.: Bentheim, Brandlecht, Emblichheim, Laarwalde or Wolda, Nordhorn, Neuenhaus, Schuttorf, and Wietmarschen.

All which afore-named deaneries, parsonages, and places, and which have been transmitted and subjected to the dioceses of the Bishops of Hildesheim and Osnabruck, conjointly with the inhabitants of both sexes thereof, laymen and priests, we consign to the churches and their herdsmen for times perpetual, as their domain and diocese, both the clergy and the people, and subject them with regard to spirituals, entirely under their control. Wherefore all the jurisdiction of the former bishops, ordinaries, vicars apostolic, or administrators of the above-mentioned places, deaneries and parsonages, shall cease altogether as soon as the present brief shall have been put in execution in its full bearing; in accordance with which we herewith at the same time declare, that in those places and parts which have been withdrawn from their jurisdiction, all plenipotentiary powers shall henceforth entirely lose their validity and force.

Besides which, and in order to promote the interests of the people which are being subjected to the bishops, we do hereby direct and order, that all and every document from the old chanceries, having reference to those churches and places which have been ceded and embodied anew, be surrendered and properly handed over to the chanceries of those dioceses to which they have been incorporated, and be deposited therein for ever.

As to the amount of the revenues for the episcopal table of the church of Hildesheim, it is our will and pleasure, that in conformity with traditionary custom, the same be estimated at 756 goldgulden at the exchequer rate, and that this tax be recorded in the registers of our Apostolic Chamber.

With respect, however, to the episcopal table of the church of Osnabruck, it shall, immediately after its dotation has taken place, be valued at the customary rate of 666 $\frac{2}{3}$ goldgulden, and is to be entered accordingly in the registers of the Apostolic Chamber.

Finally, and in order that all these our dispositions be duly executed, we appoint the above-mentioned Franz Egon, Bishop of Hildesheim, our executor of this Apostolic Brief, with all the requisite and necessary powers, in order to enable him to proceed, after the previous formalities valid in law, to the dotation for the new establishment of every church and their chapters, as likewise to the determination of the limits of their dioceses, and upon the whole, to effectuate and order all the remaining particulars as aforesaid, freely and in a lawful manner: and for so doing we hereby furnish him with our apostolic authority.

Furthermore, and for the complete execution of all objects, especially with regard to such places lying remote from the bishop's residence, we invest him, the Bishop Franz Egon, also with the power to delegate under him one or more persons holding ecclesiastical dignities, with full authority to act in his stead.

And he himself, as well as the person or persons whom he has invested with such power, shall be entitled, freely and undisputed, to decide upon any objection that may possibly be made in the course of such executions, observing nevertheless the formalities in law, but rejecting every appeal.

Besides which we do hereby impose it as a duty on the aforesaid Bishop Franz Egon, to cause authentic copies to be transmitted to the Apostolic See, of all the transactions which he as well as his delegates shall draw up in writing with regard to the execution of the present brief, within four weeks subsequent to the consummation thereof, in order that they, conformably to usage, may be deposited in the archives of the college presiding over consistorial affairs.

This brief, and everything contained and stipulated therein, shall never be subject to blame or be impugned, or otherwise invalidated, constrained, or be made the subject of dispute; nor restitution *in integrum*, permission of remonstrance, or any other remedy founded on legal grounds or facts be admitted against it; neither under the plea, because that the one or other person or persons (of whatever station, rank, or dignity, they may be, even if they should merit to be expressly and nominally mentioned here) having a right, or pretending to have any present or future interest in these dispositions, have withheld their consent; or because some of them have not been called in to assist in the arrangements made, or have not been sufficiently heard, or not heard at all; nor for any injury, or from any other ground, likelihood, pretence, or disposal, be they ever so well supported by law, even of the secluded canonical code; at no time for the fault of subreption or nullity, or for defectiveness of our true volition, or want of the assent of those interested, or for any other deficiency, be it ever so great or material, as may be possibly devised; nor still from the consideration of the formalities and other prescribed requisites not having been duly observed or fulfilled; nor from the ground that the motives which have elicited the emission of the present brief had not been sufficiently accounted for, substantiated, and justified.

Nor shall this brief in any way be comprehended under the dispositions of contrarious ordinances, revocations, procrastinations, restrictions, abolitions, alterations, conclusions, or general and special declarations, in what manner soever they may have been made; but on the contrary, be and always remain excepted therefrom, and shall, as emanating from us by virtue of office of the Papal Providence, with complete cognition and Apostolic plenipotence, enjoy a permanent and complete force and validity, attain its perfect efficacy, and be constantly and inviolably observed by all and every one whom it may concern or be of interest to, and fully serve the advantage of the bishops and chapters of the churches afore mentioned, as also of others whose interests may be concerned in it for times everlasting.

For which reason they shall not in any way be molested, disturbed, or hindered, respecting the aforesaid provisions or their motives, by any one, of whatever rank or condition he be.

Nor shall they be held to prove or verify any article stated in this brief, nor be liable to be judicially or extrajudicially compelled to do so.

Should, however, any person, of whatever rank or condition he be, knowingly or wittingly proceed against it, such proceedings shall be altogether ineffective, vain, and of no force.

To all of which neither the legal axioms, "that a well-acquired right is not to be abrogated; or that in any attempt at abrogation, the parties interested are to be heard;" nor any other such maxims of ours and of the Apostolic Chancery can be brought in opposition. Neither shall the statutes of the said churches, even if corroborated by apostolic confirmation or by any other authority or customs, not even those from times immemorial, nor privileges, indulgences, and grants, even when worthy of a parti-

cular and nominal mention; nor the general and special ordinances and decrees which have emanated from the Popes or from the synodal and provincial assemblies, or from the general councils, be admitted or cited here: the which, on the contrary, all any every one thereof, in their whole contents and form, even if there were an express or nominal mention, or any other expression or particular form required for it, and just as if the contents thereof from word to word, without any omission, were inserted here, and that the required forms had been strictly observed. We hereby completely, particularly, and expressly rescind and declare abolished, in as far as this may be necessary for the accomplishment of all things mentioned before; as is equally the case with respect to all the rest, brought in opposition to the foregoing.

It is also our will and pleasure, that to the copies of this our brief, and even to the impressions thereof, provided they be furnished with the signature of a notary public and with the seal of a person holding an ecclesiastical dignity, the same credit and validity be given which is due to the original.

No person, whoever it may be, is permitted to impugn or wickedly to act against this our brief, for the abolition, extinction, annihilation, partition, segregation, union, limitation, allotment, concession, subjection, reintegration, declaration, deputation, commission, enactment, abrogation, and declaration of will.

Should any one, nevertheless, venture to attempt such, he must know that by so doing he will draw upon himself the displeasure of the Almighty God and of his holy Apostles Peter and Paul.

Given at Rome, in the Church of Sanctam Mariam Majorem, in the year after the incarnation of the Lord, 1824, on the 26th day of March, in the first year of our Pontificate.

Inclosure 2 in No. 10.

Patent relative to the Royal Sanction of the Papal Bull of March 26, 1824.

George IV, by the grace of God, King of the United Kingdom of Great Britain and Ireland, &c., also King of Hanover, Duke of Brunswick and Luneburg, &c.

WHEREAS having maturely and carefully taken into consideration the limitation bull of the dioceses, promulgated by His Papal Holiness, bearing date 26th of March, 1824, beginning with the words: "Impensa Romanorum Pontificum," we have arrived at the conviction, that the same according to its essential tenor, does fully correspond with all those transactions and agreements which have taken place with the Papal Chair concerning the organization of the Bishoprics and Chapters, the mode of their being filled up, and their endowments, as well as the limitation of the dioceses of the Catholic Church within our Kingdom of Hanover, and we do therefore decree as follows:—

1. By virtue of our Royal prerogative, we do hereby give our Royal sanction to the dispositions relative to the objects aforementioned of the said Papal bull, wherefore all and every one whom it may concern have to observe and follow up those dispositions as a binding statute of the Catholic Church within our Kingdom of Hanover.

2. The sanction of the aforesaid bull being, however, as a matter of course, only granted in as far as it may not be prejudicial to our Royal rights and the rights of our subjects of the Evangelical religion and the Evangelic churches within our kingdom.

3. A copy of the Papal bull in question is to be annexed to this our Royal Patent of sanction, both in the Latin and German tongue, and to be embodied in the first Division of the Collection of our Laws.

Given at Carlton House, May 20, 1824.

(Signed) GEORGE REX.

(Countersigned) E. COUNT MUNSTER.

Inclosure 3 in No. 10.

Form of Oath of Allegiance to be taken by Roman Catholic Bishops in Hanover.

(Translation.)

I, N. N., Bishop of Hildesheim and Administrator of Osnabruck, swear on oath before the Almighty and All-Knowing God, that after having been promoted to the dignity of Bishop of Hildesheim and nominated Administrator of the Diocese of Osnabruck, I will be true, devoted, obedient, and subject to His Majesty Ernest Augustus, King of Hanover, Royal Prince of Great Britain and Ireland, Duke of Cumberland, Duke of Brunswick and Luneburg, &c., my most gracious King and Ruler of the Land, and to his illustrious legal successors in the Government. I will promote to the best of my power, in the practical circle allotted to me, what may advantage His Majesty and the common welfare (avoiding injury and disadvantage); and truly and conscientiously attend to my episcopal office and my episcopal administration. I will take pains to lead a worthy and irreproachable life, and most zealously will above all be anxious that Christian knowledge and true piety, joined with reverence towards the head of the State and love to the fatherland, shall take deep root and blossom with vigour in the ecclesiastics and laymen entrusted to my direction, and especially also in the growing youth. I will therefore not suffer or allow that priests or other ecclesiastics under my control shall teach or act in a contrary sense or spirit, or otherwise by word or deed lead astray the fidelity of the subjects and their loyalty to their King and fatherland; and should I get knowledge that anywhere, within or without my diocese, anything should be intended which could threaten with danger His Majesty the King, his dignity and rights, as well as the security, peace, and welfare of the State, I will make immediately a faithful report thereof. At the same time I declare hereby that I thoroughly understand and will cause to be understood the oath which I have to tender to His Holiness the Pope, as Head of the Catholic Church, before entering my office, and especially the clause in this oath which purports "Haec omnia et singula eo inviolabilius observabo, quo certior sum, nihil in illis contineri, quod juramento fidelitatis meae erga Regem Hannoveriae ejusque ad Thronum successores debitae adversari possit," that I do not consider myself in any other sense by this said oath of consecration bound to an act or omission of any kind which would be against my duty as a subject, and the oath of allegiance, devotion, and subjection which I have tendered to His Majesty my most gracious King and Ruler of the Land. All this I swear, vow, and declare, so help me God and His holy word.

From a study of the subject it is found that the following are the

principles which govern the subject.

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NETHERLANDS.

No. 11.

The Hon. Henry Elliot to Viscount Palmerston.—(Received December 19.)

My Lord,

The Hague, December 17, 1850.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 12th instant, and in obedience to the instructions contained in that despatch, to inclose a translation of the Concordat* concluded between the Pope and the King of the Netherlands, on the 18th June, 1827, regulating the government of the Roman Catholic Church in Holland, and the manner of appointing their bishops.

This Convention has hitherto remained a dead letter; but in 1841 an attempt was made by the late King to comply with the wish of his Roman Catholic subjects for the establishment of bishoprics, and an agent was sent from Rome to endeavour to make the necessary arrangements. The proposal, however, created such general discontent and excitement, that it was found impossible to carry it out without the greatest risk of disturbing the tranquillity of the country, and the project was consequently abandoned.

The Roman Catholic Church, therefore, in this country, still continues on the footing of a mission; and though some of the clergy have been created "*bishops in partibus infidelium*," they have neither dioceses nor jurisdiction, and the whole discipline of the Church is entrusted to the Pope's Internuncio at the Hague, who is invested with the character of Head of the Missionary Church in Holland, and as such receives 5000 florins a-year from the Netherland Government.

The Dutch Roman Catholics have by no means abandoned the desire for the establishment of bishoprics; but though the Fundamental Law of 1848 states that all religions are to enjoy perfect liberty, the 65th clause of that law lays it down that no Dutchman can accept orders, titles, dignities, or foreign employment, without the permission of the King.

This clause effectually prevents the appointment of bishops without the consent of the Government; and no Ministry, however favourable to the Catholics, has yet dared to advise His Majesty to sanction a measure which would raise most formidable discontent among his Protestant subjects.

With respect to the publication of Papal bulls and rescripts, I have to state that under the new Fundamental Law it is not considered necessary to obtain the previous sanction of the Government, as had formerly been the case up to the year 1848.

I have, &c.

(Signed) HENRY ELLIOT.

* See Inclosure 3 in No. 4.

No. 12.

The Hon. Henry Elliot to Viscount Palmerston.—(Received January 16.)

(Extract.)

The Hague, January 14, 1851.

BY your Lordship's despatch of the 12th ultimo, you directed me to forward the copy of any Concordat existing between the Netherland Government and the Pope, regulating the manner of appointing Roman Catholic bishops.

I had consequently the honour of transmitting in my despatch of the 17th of December, a copy of the Concordat of 1827, and of stating at the same time, that it had never been put in force. I think it, however, right now to mention to your Lordship, that I find it very generally doubted whether that Concordat can any longer be considered as existing. The Catholic party, in general, think that it exists.

On the other hand, it is commonly urged by the Protestants, that this Treaty having been concluded before the Belgian separation, and while the Catholics still formed a large majority of the population, and as at the time of the separation it had never been acted upon, therefore the entire change of circumstances which then occurred must be considered to have released this country from the obligations it had taken upon itself, with the view of satisfying those who now no longer continue Netherland subjects.

This opinion is shared even by many who think that under the equality of religions proclaimed in the Fundamental Law, the Catholics ought not to be denied the right of having their bishops, but who are averse to the King being a direct party to the nomination of them, as would be the case under the Concordat.

There is at present great impatience manifested on this subject among the Roman Catholics, and a large church is being constructed at Amsterdam, in one of the most conspicuous parts of the town, with the intention, it is supposed, of becoming a cathedral church of a new diocese; and it is thought that such a project would not be objected to by the Government, who declared lately, in reply to a question put to them in the States-General, that they would not interfere with or oppose any internal regulations of the Roman Catholic Church.

PORTUGAL.

No. 13.

Sir H. Seymour to Viscount Palmerston.—(Received January 5, 1851.)

(Extract.)

Lisbon, December 27, 1850.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 12th instant, and to acquaint you, that in obedience to your orders I have taken steps which will enable me to put your Lordship in possession of various acts regulating the governance of the Roman Catholic Church in this country.

In the meantime I hasten to inform your Lordship that a measure on the part of Rome, in any part or degree like that which is exciting so much sensation in England, would, if attempted with regard to Portugal, lead with certainty to a diplomatic rupture with the Pope's Government, and very possibly to a religious schism.

Were the Pope to take the initiative in naming a Portuguese bishop, the Crown of Portugal would consider itself much aggrieved by even the hesitation of the Pope in confirming the nomination made by the Portuguese Government; as to the nomination of a bishop originating with the Pope, were such a measure possible, the course to be followed would be very simple: the intrusive prelate would immediately be sent out of the country.

I have inquired further, what restrictions exist with regard to the publication in Portugal, of Papal bulls, briefs, and ordinances; and was informed in reply, that no publication of the kind can take place here unless with the previous sanction of the Government.

What, I asked, would happen were the publication of such Papal acts to be made without the assent of the Government? I was told, in the first place, that the relations between Portugal and Rome are so well understood, that not one of the Portuguese bishops would venture to pay attention to the unauthorized publication of a Papal decree; and, in the second place, the Government has precedents showing the course which it would have in such case to follow; with regard to the Pope's Mission, the Government without delay or hesitation would send the Nuncio his passports.

No. 14.

Sir H. Seymour to Viscount Palmerston.—(Received January 14.)

(Extract.)

Lisbon, January 7, 1851.

I HAVE obtained various papers destined to exhibit the course pursued in Portugal with regard to the appointment of bishops, and the amount of harmonious action which it has been found possible to produce between the Court of Lisbon and the See of Rome in this respect.

The papers are four in number, and consist:—

First, of a memorandum, chiefly bibliographical, on the right of patronage enjoyed by the Sovereigns of Portugal; pointing out the following works as containing a valuable body of information on the subject:—

1st. "Tratado Analytico e Apologetico sobre os Provimentos dos

Bispados da Corôa de Portugal. Por Manoel Rodriguez Leitão. Lisboa, 1715. Um vol. fol."

2nd. "Praxis de Patronatio Regio et Seculario. Por Bento Cardoso Osorio. Lisboa, 1735. Um vol. fol."

3rd. "Demonstração Theologica, Canonica e Historica, &c. Pelo celebre Theologo e Canonista, Padre Antonio Percirad e Figueredo. Em Lisboa, 1769. Um vol. 4to."

4th. "Balidos das Igrejas de Portugal do Supremo Pastor Summo Pontifice Romano. Pelo Tres Estados do Reino. Impresso em Paris no anno de 1653. Um vol. 12mo."

5th. "Historia de Portugal Restaurado. Por Dom Luiz de Menezes, Conde de Ericeira. Em Lisboa, 1679. 2 vol. fol."

Second. An Historical Memoir, in two parts: 1st. On the ancient and modern discipline with regard to the different modes of electing, confirming, and consecrating bishops. 2nd. Of the polity of the Lusitanian Church on the same subject-matter. To the 2nd part of this memoir is attached a decree of Benedict XIV, directing the insertion of the following words:—"Ad præsentationem illius Regis," in all future provisions of the Portuguese churches.

I should observe that your Lordship will look in vain for any Concordat agreed upon by Portugal and Rome. Such Acts may have been passed in former times, but have long since been considered as a dead letter. As far as I understand the explanations which I have received from the Internuncio and the Portuguese Ministers, ecclesiastical affairs are managed in this country, on the side of Rome, by as close an observance of the principles and rules laid down by the Council of Trent, as Papal authorities are able to obtain; and on the part of the Government, in that spirit of resistance to spiritual encroachment which was exhibited at an early stage of Portuguese history, and with that attention to national interests which has become a traditional, as it was, in fact, an inherent right.

No. 15.

Sir H. Seymour to Viscount Palmerston.—(Received February 5.)

My Lord,

Lisbon, January 17, 1851.

SO much care has been required in preparing the translations of the documents relating to the ecclesiastical affairs of this country, to which I alluded in a former despatch, that I still feel doubtful whether they can be got ready by the 19th instant.

I have therefore condensed, in the paper which I have the honour of inclosing to your Lordship, such information as I have been able to obtain upon the points which I considered as the most interesting to Her Majesty's Government.

This paper will be found to consist of a series of thirteen questions and answers; and as the latter have been written after I had consulted persons likely to be familiar with ecclesiastical subjects, I am willing to believe, not only that the replies will prove correct, but that they may save your Lordship the trouble of consulting documents of greater length.

I have, &c.

(Signed G. H. SEYMOUR.)

Inclosure in No. 15.

Questions and Answers relating to Ecclesiastical Affairs.

Question No. 1. Can the Pope name to any archbishopric, bishopric, cure, headship of convent, &c., in Portugal?

Answer. No, he cannot: because, not by Convention, but agreeably

to tradition and usage, the Crown of Portugal designates the persons who are to be appointed archbishops and bishops.

The Crown names equally to the cures. It is however to be remarked, that the discipline of the Church requires that the nomination of a curate should be preceded by his examination upon doctrinal points, and this examination which, from the period of the revolution, had been neglected, has been re-established within the last four years.

As regards convents, those of the monks have been, as is known, suppressed in Portugal. Convents of nuns still exist, and in these the superior is chosen every three years by the nuns themselves.

No. 2. What are the forms observed when the Crown of Portugal designates a person as archbishop or bishop?

Answer. The Government make known their choice to the Papal Mission. The Nuncio or Internuncio institutes a suit (*procès*) to establish the fitness of the candidate, and sends the acts of this suit, with the candidate's name, to Rome. The Pope then holds a consistory at which the official nomination (*institution canonique*) is made out; or at which he signifies his refusal in the uncommon case of any canonical objection being raised against the candidate.

No. 3. Can the Pope refuse his sanction, except under canonical objections, to the appointment by the Crown of Portugal of any archbishop or bishop?

Answer. He cannot, unless under the canonical objections, as above stated; as for instance, the bad character of the candidate.

No. 4. Can any Papal brief, rescript, or bull, be published in Portugal without the previous approbation of the Government of Her Most Faithful Majesty?

Answer. The Government insists that no such acts be published without their having previously received the *Exequatur Regio*; and although the See of Rome does not officially recognize the propriety of the rule, it provides for its careful observance.

No. 5. Supposing any such unauthorized publication to take place, would obedience to orders thus emanating from Rome, be paid by the archbishops or bishops of Portugal?

Answer. As a matter of conscience such orders would be binding, as a matter of fact they would be disregarded.

No. 6. Does the previous answer apply to bulls regarding points of doctrine?

Answer. Such bulls (*bulles dogmatiques*) are binding upon the consciences of all Roman Catholics, but their publication takes place only at Rome, *urbe et orbi*.

No. 7. After the demand has been made by the Government of Portugal for the bulls of installation required for any designated archbishop or bishop, what length of time (supposing no canonical objections to exist against the candidate) can intervene between the notification of the candidate's name to the Papal Mission and the sanction of the See of Rome?

Answer. The interval is almost necessarily of four months, and very rarely exceeds half a-year.

No. 8. Could the Pope, *motu proprio*, increase the number of archbishops or bishops in Portugal or in the Portuguese possessions, or could he alter the limits of those already existing? Could he, for instance, increase one diocese at the expense of another?

Answer. Such increase and such alterations can be made only upon the authority of a bull, to obtain which the concurrence of the Portuguese Government is indispensable.

No. 9. What is the system followed with regard to coadjutors? In Portugal, is the coadjutor named at the same time as the bishop? And is the nomination equally made by the Crown? And, further, upon the

death or removal of a bishop, does the coadjutor become necessarily his successor?

Answer. A coadjutor to an archbishop or bishop is rarely appointed in Portugal. An instance, however, has lately occurred in the case of the Archbishop of Goa, who has been designated as coadjutor of the Archbishop of Braga. With respect to the right of appointment to a coadjutorship, some difference of opinion exists; the right constantly claimed by the Crown of Portugal being still contested by the Pope.

As regards his succession, the coadjutor does not necessarily take the place of his predecessor. He does so, however, *de jure*, when the bull of his appointment bears the engagement thus expressed, "*con futuro successione.*"

No. 10. After what lapse of time, the Crown of Portugal not naming to an archbishopric or bishopric, would the Pope be at liberty to make the appointment?

Answer. According to Canon Law, as in the case of all patronage (patronat), the Pope would be at liberty to make such appointments at the end of six months. *De facto*, however, this act of authority is never attempted by the Pope, and there have been instances of sees remaining vacant six, and even ten, years.

No. 11. What are the privileges belonging to the Patriarch? To what extent do the powers which he possesses, replace those which, without him, would be exercised by the Pope?

Answer. The Patriarch, although possessed of higher honours, has only the jurisdiction of an archbishop; like the archbishops, he receives appeals from the bishops. His powers do not at all replace those of the Pope.

No. 12. Is any part of the money received at the "Nunciatura," for dispensations, indulgences, &c., devoted to the purposes of the Portuguese Church, or are such sums sent to Rome?

Answer. Indulgences are obtained gratuitously at the "Nunciatura." Marriage dispensations are likewise obtained there, but these latter upon the payment of fees. These fees form a fund, out of which the expenses of the Papal Mission are understood to be paid, and the surplus sent to Rome. The surplus must, however, be inconsiderable, the whole sum arising yearly from the sale of dispensations in Portugal, not exceeding, according to the belief of well-informed persons, £3000.

No. 13. Are tithes abolished entirely throughout Portugal and the Portuguese possessions?

Answer. The abolition is complete as regards Portugal. With respect to Madeira, the Azores, and the Cape Verd Islands, in these tithes are still paid, and out of the funds thus provided the clergy are paid; and the same observation applies to the Portuguese Settlements in India and Continental Africa.

No. 16.

Sir H. Seymour to Viscount Palmerston.—(Received February 5.)

My Lord,

Lisbon, January 28, 1851.

IN obedience to the orders contained in your Lordship's despatch of the 12th December last, I have the honour of transmitting to your Lordship the voluminous documents which I enumerated in my despatch of the 7th instant, and which will, I trust, be found to contain all the information which can be required by Her Majesty's Government, respecting the management of ecclesiastical affairs in Portugal.

I have, &c.
(Signed) G. H. SEYMOUR.

Inclosure 1 in No. 16.

Historical Memoir.

(Translation.)

PART I.

On the Ancient and Modern Discipline of the Universal Church with respect to the different Modes of Electing, Confirming, and Consecrating Bishops.

CHAPTER I.

Of the Elections, Confirmations, and Consecrations of Bishops, and of the rights resulting from those Solemnities, from the Establishment of the Church up to time of the Pontifical Decretals published in the 12th century.

§ 1. THE Church, our mother, being founded by Christ our Lord¹; its government being established according to a monarchico-aristocratic form², and committed to the College of the Apostles, under the direction of St. Peter, who was selected out of their number to be the visible Head of the Church and Vicar of Christ on earth³; it became thereafter necessary to fill up the place vacant in the Apostleship by the odious treason of Judas.

§ 2. And since Christ did not prescribe any determinate form for the appointment of consecrated ministers, leaving the point as a mere matter of internal regulation, in order that it might afterwards admit of the modification and changes which in process of time might appear to be requisite; and considering it sufficient to have conferred on the Apostolic Body all the power necessary for the appointment of the ministers required for their assistance, and for succeeding them in the ministry of the Gospel⁴; the Apostles took counsel among themselves on the best means of worthily filling the place occupied by the traitor Judas. And calling to their recollection the instructions received from the mouth of their Divine Master, and the form ordained by God for the appointment of the High Priest of the Jews, they with one consent determined to fill the vacancy by means of election, holding a council, and summoning to attend the whole body of believers. In this manner St. Matthias was called to be an Apostle⁵. In like manner were chosen the seven deacons to assist the Apostles in the preaching of the Gospel and in the distribution of alms⁶. In like manner also were chosen the Elders proposed by the whole Christian people, and approved and ordained by the Apostolic College⁷. After this manner St. James was subsequently elected Bishop of Jerusalem by St. Peter and St. John⁸. After this manner the Apostles appointed as his successor Semeas, son of Cleopas⁹.

§ 3. In order to be convinced of the wisdom of this Apostolic discipline, it is not necessary to seek for arguments out of the sacred writers, to call to mind the assistance promised by Christ to meetings assembled in His name, nor to bring to recollection the miracles of the Chamber of the Supper of the Lord. It is sufficient to appeal to natural reason, and to consult the interests of the Church. As an interpreter of natural reason, Pope St. Leo offers himself to us in his recommendation to the Bishops of the Province of Vienne, to hold the elections in the presence of

¹ Mathæi 16, § 18, "tu es Petrus, et super hanc Petram ædificabo ecclesiam meam."

² Natal Alex., Hist. Ecclesiast. Sæcul. 15 et 16, dissert. 8, "Novissime Omnium." Paulo Josephi Riegger, Professor of the Canon Law at Vienna in Austria, in his Dissert. de Origine et Progressu Juris Canonici.

³ Joann. cap. 21. Mathæi, cap. 16. Joan. 15 & 16. Pedro Annato in Apparatus ad Positivam Theologiam, liv. 6, Art. 8.

⁴ Theodosio Ma. Rupperecht, in Notis Historicis et Criticis ad Decretales, tit. "De Electione," ibi, "illa, tamen sanctione modus eligendi Ecclesiæ ministros in individuo determinatus haud est, sed Ecclesiæ judicio velictus."

⁵ Act. Apostol. cap. 1, in fine.

⁶ Act. Apostol. cap. 6, § 5.

⁷ Act. Apostol. cap. 21, § 25.

⁸ Euseb. Cæsariens., Hist. Eccles., liv. 3, cap. 1.

⁹ The same, liv. 3, cap. , § .

the people. "He that has to govern the whole body," said the Holy Pontiff, "should be selected by the whole body."¹⁰

The same reason was afterwards again given by Hincmar, Archbishop of Rheims, writing on the subject to Henedulf, Bishop of Laon¹¹; and experience has invariably shown that this wholesome practice secures the obedience of the subjects, and makes their yoke less burdensome, for all willingly obey the superior whom themselves have elected.

St. Cyprian shows to us clearly the interests of the Church, pointing out that the presence of the people at the sacred elections is the best means for making known the vices of the bad and proclaiming the merit of the good; and the surest way for the choice to fall upon the fittest person, and for preventing the profanation of the sanctuary, by committing the keys thereof to persons who ought not to touch them¹².

§ 4. An example so holy, so conformable to natural reason, so expedient for the general interests of the Church and of the Christian community, and so worthy of the exalted and enlightened wisdom of its originators, could not fail to be readily followed¹³. The Holy Pontiffs who in succession to St. Peter occupied the Apostolic Chair¹⁴, the Bishops who succeeded the Apostles¹⁵, uniformly recommended this usage in their discourses, and caused it to be received throughout all the churches, averring it to be founded on Divine tradition, and established by the practice of the Apostles. Pope St. Clement ordered it to be universally observed¹⁶. Popes St. Cornelius¹⁷ and Lucius¹⁸ afterwards did the same; an example which was followed by St. Cyprian¹⁹. According to this form, wrote St. Cyprian, the elections of his colleague, Sadinus²⁰, and of Pope St. Cornelius, were held. In the same manner St. Cyprian himself was made Bishop, being yet a Neophyte²¹; and the author of the Apostolical Constitutions, who, according to the best authorities, wrote in the fourth century²², testifies this to have been the custom of his time²³.

§ 5. Peace being happily given to the Church, the metropolitan sees being organized, and the government of the ecclesiastical provinces being established in a better form after the conversion of Constantine the Great to our holy faith in the year 312, the same practice continued without alteration in the sacred elections. The Council of Nice, in the year 325, directed the canonical form to be observed in them²⁴. A similar decision was pronounced by the Council of Sardica, in 347²⁵; and the fourth Council of Carthage, in 398²⁶, provides for it in clearer terms.

Pope St. Siricius wrote to Huinnerius of Tarragona, that no one should be ordained Bishop without being called by the election of the clergy and people²⁷. St. Celestin directed that no appointment of Bishops should be made contrary to the will of the subjects; and that, for that purpose, careful inquiry was to be made as to their wishes, and the con-

¹⁰ S. Leon. Papa, in Epist. ad Episcopos Provinciæ Viennensis, X; in the edition of Quesnel; ibi, "Teneatur subscriptio clericorum honoratorum testimonium, ordinis consensus, et plebis. Qui præfaturus est omnibus, ab omnibus eligatur."

¹¹ Hincmar., Archiep. Remens., ad Henedulphum Laudunensem, ibi, "quoniam ab omnibus debet eligi, qui ab omnibus debet obedire."

¹² S. Cyprian. in Epist. 68 of Rigalicio's edition, ibi, "Coram omni Synagoga jubet Deus constitui Sacerdotem, id est, instruit et ostendit ordinationes Sacerdotales non nisi sub populi assistentis conscientia fieri oportere, ut plebe presente vel delegantur malorum crimina, vel bonorum merita pradiacentur."

¹³ Van Espen, Jur. Eccl. Univ., part i, tit. 13, cap. 1, §§ 1, 6, et 7. João Gaspar Barthel., Opuscul. Jurid., tom. 2. Opusc. 2, cap. 1, sect. 1. Francisco Florente, Oper. Jurid., tom. 2, ad tit. "De Electione."

¹⁴ Concil. Calcedon. Concil. Florentino.

¹⁵ Cap. "In Novo," dist. 21, cap. , "Quorum vices." 6 Dist. 68. Conc. Trident. Sess.

¹⁶ S. Clem. Papa, in Epist. I ad Corinthios.

¹⁷ S. Cornel. Papa, in Epist. ad Fabianum Anthiochen. apud Eusebium Hist., cap. 43.

¹⁸ S. Lucius I. apud Barthel., Opusc. Jurid., tom. 2, p. 417.

¹⁹ S. Cyprian. Epist. 41.

²⁰ The same, Epist. 68.

²¹ Poncio Diacono, in Vita Sancti Cypriani.

²² João Baptista Bartoli, Instit. Can., cap. 5, § 2.

²³ Constit. Apostol., lib. 8, cap. 4. Van Espen, sibi supra, cap. 3. Barthel., sibi sup. sect. 2.

²⁴ Concil. Nicæn., can. 4.

²⁵ Concil. Sardicense, can. 5.

²⁶ Concil. Carthagin., 4 can. 1.

²⁷ Siricio Papa, in Epist. ad Huinnarium Tarragonensem.

sent of the clergy and people was to be asked²⁸; and the great Pope St. Leo I declared that there was no reason that any one should be held to be a Bishop, unless he were elected by the clergy, and proposed by the people²⁹. The people and clergy elected St. Eustace Bishop of Antioch, in the year 324³⁰, and St. Athanasius Bishop of Alexandria, in 325³¹, who protested against the intrusion of Gregory into that same church, for want of the concurrence of the clergy and people in his election³². The first Council of Constantinople, in the year 381, with the concurrence of the people, elected Nectarius Bishop of Constantinople³³. In the same manner St. John Chrysostom, in 397³⁴, and Maximian, in 430³⁵, were elected for the same church; and the Council at a later date elected Stephen Bishop of Ephesus, in the presence of the people, in the year 451³⁶.

§ 6. The innovation in the elections to which the conversion of the Emperors gave rise, was merely the intervention of their authority, either in the act of the election itself, at the instance of the Council and Bishops who petitioned for their assistance, in order that the elections might be held in peace and according to the canons, or subsequently to the holding of the elections, in order to give their approbation of the person elected³⁷. The people and clergy of Antioch being divided into parties on the occasion of the election of a successor to Paulinus, and the appointment of a prelate being for a considerable time hindered, because some desired St. Eustace, others Eusebius of Cesarea, Constantine the Great wrote to the two parties, in order that they might lay aside the spirit of dissension, and agree upon the choice of a Bishop³⁸. And St. Eustace being afterwards driven out of that church by his competitor, who was called to it by an Arian synod, the same Emperor declared the new election void, and caused the Nicene Canon prohibiting translations to be observed.³⁹ Nectarius was elected Bishop of Constantinople with the concurrence of the Emperor Theodosius, in 381,⁴⁰ and had for his successor St. John Chrysostom, with the assent of Arcadius.⁴¹

§ 7. On some occasions the electors, weary of protracted dissensions, submitted unanimously by way of compromise to the arbitration of the Emperor, in order that he should make the election.⁴² Such was the case in the election of St. Ambrose, transferred, after great contention, and his own refusal to the Emperor Valentinian, who did not avail himself of it; this being the first time that we find the nomination of Bishops granted to a secular Prince.⁴³ For the same reason, Theodosius the Great subsequently nominated Nestorius Patriarch of Constantinople, at the close of the fourth century;⁴⁴ and this was the first instance of carrying out the Imperial nomination of a Bishop.⁴⁵ At other times the electors had recourse to the authority of Princes, that they might induce the persons elected to accept the choice that had fallen upon them,⁴⁶ as was the case with Heraclius, on the election of John the Almoner to the Patriarchate

²⁸ Celestino I, Papa, in cap. "Nullus" 13, dist. 61, cap. . Cleri. 26, dist. 63.

²⁹ S. Leon I, Rustic. Narbonens. Episcop., Epist. 92, cap. 1; apud Gratianum, in cap. "Nulla" 1 dist. 62. Idem in cap. "Vota," 27 dist. 63, et in cap. 4, dist. 65.

³⁰ Baronio, tom. 3, Annalium ad an. 324.

³¹ The Bishops of Egypt in Epist. Encyclicæ, quæ extat in Apolog. 2 Sancti Athanasii.

³² S. Athanasius, in Epist. "ad Solitarium Vitam Agentes."

³³ Concil. Constantin. 1, in Litteris ad Damasum Papam, quæ habentur apud Theodoretum Hist. Eccles., lib. 5, cap. 9.

³⁴ Sozomen., Hist. Eccl., lib. 8, cap. 2. Theodoret., ubi supra, lib. 5, cap. 25.

³⁵ Concil. Ephesin. 1, act. 3, pte. 3, cap. 21.

³⁶ Concil. Chalcedon., Act. 10 et 11.

³⁷ Van Espen, ubi supra, cap. 3. Barthel., ubi supra. Franc. Florente, ubi supra, ad tit. de Electione. Rupprecht, ubi supra, num. 21. Christiano Lupo, in Dissert. de Regia Nominatione, tom. 3. Scholior præfixa, cap. 6. Thomassino, de veteri et nova Eccl. Disciplin., pte. 2, liv. 2.

³⁸ Baronio, tom. 3, Annalium an. 324.

³⁹ Theodoret., Hist. Eccl., lib. 1, cap. 7.

⁴⁰ Concil. Constantin., and Theodoret., cited above in Note 33.

⁴¹ Sozomen., Hist. Eccl., lib. 5, cap. 25.

⁴² Barthel., ubi supra, sect. 2, num. 8.

⁴³ Soerat., Hist. Eccl., lib. 4, cap. 25. Barthel. ubi proximè, No. 10.

⁴⁴ Sozomen., Hist. Eccl., lib. 5, cap. 8.

⁴⁵ Rupprecht, ubi supra, No. 21.

⁴⁶ Barthel., ubi supra, No. 8.

of Alexandria, which he had declined.⁴⁷ There were occasions, too, when the Emperors nominated without being solicited. Thus Justin nominated St. Epiphanius Bishop of Constantinople;⁴⁸ and Justinian nominated Menas afterwards to the same church, in the year 530, and gave him Eustichias for a successor.⁴⁹ These nominations, however, gave no right to the nominee; they amounted merely to a proposal or a recommendation of the merits of the candidate, which, although it did not fail to command attention, did not violate the freedom of the election, nor prevent the clergy and people from holding it according to the apostolic form.⁵⁰

§ 8. Accordingly, during the reigns of the Christian Emperors, popular elections continued, those very facts whereby we have just ascertained the intervention of the Imperial dignity in them, serving for a proof of this truth.⁵¹ The form observed in them was not uniform in all the churches. That of the Eastern Church was different from that which prevailed in the Western; and even in the West there was a difference in some provinces, for the African Church was not in all respects in unison with the Gallican: in substance they agreed, but they varied in the manner. The form usually observed in the West was this:⁵² as soon as the church was vacant, the vacancy was made known to the Metropolitan, who immediately repaired to it, or named a suffragan to go and visit it.⁵³ The visitor celebrated the obsequies of the deceased Bishop; summoned the clergy and people for the election of a successor; instructed them as to the qualifications requisite for such successor, and as to the forms to be observed in his election; exhorting them to propose for Bishop the person whom they might find to be most worthy, without reference to human partialities. Their minds being prepared, he gave notice to the Metropolitan and to the Provincial Bishops to be present at the holding of the election. In their presence the votes of the clergy and people were taken, and the decree of election was drawn up together with them, which was signed by all the parties, and laid before the Council of Bishops. This Council investigated the election, and on finding it in conformity with the canons, called in the Bishop elect, administered to him the oath of observance of the canons and obedience to the Metropolitan and to the Pope; and without further delay he was at once consecrated, provided that at least three Bishops were in attendance, the other provincial Bishops who were not present on account of any cause of hindrance, sending their consent in writing.⁵⁴ After this, the record of the consecration was handed to him, which contained the relation of all the proceedings of the election; and he was forthwith installed in the government of his see.

If the Metropolitan had not attended at the visitation or at the election, the decree thereof was forwarded to the Metropolitan See, and the Bishop elect was consecrated with his authority; the Council of Bishops being unable to proceed to consecration without such authority, that of the Metropolitan being always the principal one in this respect;⁵⁵ and in process of time he came to have the power of approving and enquiring into the election, independently of his suffragans, who frequently

⁴⁷ Leoneio, in *Vita Joann. Eleemosinarii*. Barronio, an. 610, No. 7.

⁴⁸ Epiphanius Constantinop., in *Litteris ad Horsmisdam Papam*, an. 520, apud Baronium, tom. 7, *Annalium*.

⁴⁹ Barthel., ubi proximè.

⁵⁰ Barthel., ubi proximè ibi, "non infrequenter electum ab Imperatoribus Episcopum clerus et populus suo consensu et applausu prosequantur, uti textatur Epiphanius . . . is enim electus erat a Christianissimo Justino, cui accessit consensus sacerdotum, monachorum et plebis; similiter contigit in electionibus menæ anno 530, et post menæ mortem Eustichii Episcoporum Constantinopolitanorum sub Imperatore Justiniano."

⁵¹ Franc. Florente, ubi supra, pag. 139, Nuremberg edition. Barthel., ubi proximè, No. 11 et 12. Van Espen, ubi supra, No. 6. Hincmar. Remens., in *Epist. ad Hennedulphum*, tom. 8, Concil., edit. Labbeance, column. 1867.

⁵² Joann. Gaspar. Barthel., in *Opuscul. Juridicis*, tom. 2. Opusc. 2 de *Concordatis Germaniæ*, in *Dissert. preliminar.*, sect. 2, num. 11 et 12. Franc. Florente, in *Oper. Jurid.*, tom. 1, ad tit. de *Electione*, pag. (mihi) 136 et 137. Van Espen, *Jur. Eccl. Univers.*, pte. 1, tit. 13, No. 6.

⁵³ Mention is still made of these visitors in the ninth century, in the *Epist.* cited in Note 27, and at the end of the sixth century, in the *Epist.* of St. Gregory the Great, especially in liv. 2, epist. 99.

⁵⁴ Concil. Nicen., can. 4 et 6, et in fine *Epist. Synodice ad Egyptios*. Concil. Antioch., can. 19. Sardic., can. 5.

⁵⁵ Concil. Carthagin., 4 can. 1. Van Espen, ubi supra, tit. 14, cap. 1.

were not able to attend; the attendance, however, of three Bishops at the act of consecration being an indispensable requisite. In the East the elections were held in the Metropolitan city, the suffragan Bishops and such electors as desired to attend being summoned; a commencement being thus made of the exclusion of the people from them.⁵⁶

§ 9. On the increase of the number of believers, the attendance of the people becoming inconvenient, on account of the tumults by which they frequently disturbed the sacred elections, the Fathers of the East began to take precautions against the excessive influence of the commonalty, recommending the Bishops not to pay much deference to their votes, which were usually without discrimination; and these precautions not being adequate to prevent irregularities and disturbances, they at last succeeded in excluding the commonalty altogether, summoning to the elections only the clergy and the aristocracy; who, as the more noble part, represented the whole body of the people. (See the preceding note.)

Authorities are not wanting for the expulsion of the commonalty from the time of the Council of Laodicea, held in the beginning of the 4th century;⁵⁷ but the election of Stephen, Bishop of Ephesus, by the Council of Chalcedon, in the middle of the 5th century, in which he himself states that the people took part, is a proof to the contrary.⁵⁸ From whence we are of opinion that the entire exclusion of the commonalty was only effected in the 6th century, in the reign of Justinian; for there is proof that at that period the aristocracy alone shared in the election of Bishops.⁵⁹

§ 10. The abuse which the nobles made of their authority, by violating the freedom of the elections, and constraining their co-electors to choose their own clients, frequently undeserving persons, began to make their participation unpopular, and gave occasion for measures to be taken to remove them also from the elections of the holy ministers. With this object, it was observed that they were laymen, and the conviction prevailed, that the retaining of their vote was highly inconsistent; and that it behoved them only to await in silence the prelate who should be given to them by the College of Ecclesiastics; and on this ground they were deprived of the voice which they had had in the election of prelates up to that period, by the Eighth General Council, held at Constantinople in the 9th century.⁶⁰

§ 11. On the exclusion of the nobles the elections became the peculiar privilege of the clergy. These represented the ancient Presbytery, or Council of Presbyters, who composed the Assembly or Senate of the primitive Church,⁶¹ and it appeared reasonable that as the clergy, together with the Bishop, possessed the whole power in Church matters, to the entire exclusion of secular persons, they should also enjoy a right, to the exclusion of laymen, in the election of the prelate who was to be their head in the government of the Church.⁶²

Thus much respecting the changes of discipline in the elections to bishoprics in the Eastern Church up to the eleventh century.

§ 12. In the West, elections continued according to the apostolic form for many centuries;⁶³ the Capitularies of Charlemagne ascribe to the people the right of taking part in Episcopal elections in the beginning of the 9th century.⁶⁴ In the latter part of that century, Pope Nicholas I

⁵⁶ Rupprecht, ubi supra, No. 16, ibi, "Sæculi sexti initio plebs exclusa fuit ab electione, clericis et primoribus civitatum tantum admissis."

⁵⁷ Concil. Laodic., can. 13. Concil. Nicen., can. 4. Concil. Antioch., can 19 et 23.

⁵⁸ Concil. Chalcedon., act. 2. Van Espen, pte. 1, tit. 13, No. 4. Rupprecht, in Notis Historius ad Univ. Jus Canonium, tit. de Electione, No. 14.

⁵⁹ L. 42. Cod. de Episcop. et Cleric. Novell. 123, cap. 1. Novell. 137, cap. 2.

⁶⁰ Synod. General. Constantinop. an. 869. can. 22, ibi, "Neminem laicorum Principum vel Potentium semet inserere electioni Patriarchæ vel Metropolitæ, aut cujuslibet Episcopi . . . cum nullam in talibus protestatem quemquam Potestativorum, vel cæterorum Laicorum habere conveniat, sed potius silere, et attendere sibi usquequo regulariter à collegio ecclesiastico suscipiat finem electio futuri Pontificis." Rupprecht, ubi prox., No. 17 et 18, et alii.

⁶¹ Rupprecht, ubi supra, No. 18 et 19.

⁶² Van Espen, ubi supra, No. 6. Barthel., ubi supra, sect. 7, No. 4.

⁶³ Capitularia Caroli Magni, lib. 1, cap. 84; in edit. Balus., tom. 1, pag. 118; apud Gratian. in cap. Sacrorum, 34 dist. 63, anno 803.

directed that the Bishops should not be consecrated without having been elected by the clergy and people.⁶⁵ The Council of Ravenna, held in the beginning of the 10th century,⁶⁶ made the same regulation with respect to the consecration of the Roman Pontiff. The Epistles of Pope Gregory VII show the participation of the people in the 11th century.⁶⁷ And the same appears to have been the practice in the 12th century, from those of St. Bernard,⁶⁸ by which it is proved that the elections of the Bishops of Chalons and (Genedense) were held with the same observances in the course of that century. Lastly, about the same period the people retained their ancient privilege in the election of the Pontiffs: since it is in evidence that they were excluded from it at the time when the new form which is observed at this day was given to it.⁶⁹

§ 13. Together with popular elections continued also the assent of the secular Princes to the persons of the elected prelates. The Roman Pontiffs could not be consecrated unless the Ambassadors of the Emperor of Germany were present, by an express canon of the Council of Ravenna above referred to;⁷⁰ and what took place on the election of Gregory VII with respect to the Imperial consent, shows how necessary it was considered in the twelfth century.⁷¹

The Church having received temporal domains from the liberality of Sovereigns, who had also founded, endowed, and restored many churches, and had done great services to the progress of religion and of divine worship, the rights of Princes were extended so far that they obtained the nomination of Bishops. Such nominations were made in Spain by the Gothic Kings from the seventh century.⁷² They are found to have been made by the Kings of France in the eighth century;⁷³ and the Kings of England enjoyed this privilege previously to the pontificate of Gregory VII;⁷⁴ and the Othos and Henry I, Emperors of Germany, exercised it also in the tenth and eleventh centuries.⁷⁵ In general, however, elections by clergy and people prevailed: and even those Sovereigns who possessed the right of appointment, frequently allowed them the liberty of electing the prelates, being satisfied with a petition for their permission to hold the elections, and for their assent to the person elected.

§ 14. During the whole of this period, the election, confirmation, and consecration of Bishops were in fact not distinct acts; nor was any difference between them known: for popular elections were in fact nothing more than a public testimony borne to the qualifications of the candidates, and mere evidence to their life and morals, which, before they were approved by the College of Bishops, conferred no right or title, and such is the real meaning of the Laodicean and Nicene canons;⁷⁶ in which, even at the beginning of the fourth century, the election is ascribed to the Provincial Bishops. The real electors were the Metropolitan and his

⁶⁵ Nicolaus I, in cap. *Episcopos*, 13, et a dist. , cit. anno 857.

⁶⁶ Concil. Ravennat. ann. 904, can. 1.

⁶⁷ Greg. VII, liv. 1, epist. 35; lib. 5, epist. 8.

⁶⁸ S. Bernard. epist. 13 et 27.

⁶⁹ Van Espen, ubi supra No. 4 in fine, et No. 5, in fine. Onuphrius Panninus, in *Notis ad Platinam in Vita Innocent II.* Greg. IX, c. 52. de Elect. On the reasons for excluding the people, see Barthel., ubi supra, sect 7, in fine.

⁷⁰ Concil. Ravennat. sub Joanne IX, anno 904, can. 1, ibi, "Volumus ut deinceps abdicetur, et constituendus Pontifex convenientibus Episcopis, et universo clero eligatur, expetente Senatu et populo, qui ordinandus est sic in conspectu omnium celeberrime electus ab omnibus, presentibus Legatis Imperialibus consecratur."

⁷¹ Van Espen, pte. 1, tit. 13, cap. 3, No. 11.

⁷² Concil. Tolet., 12, an. 681, can. 6.

⁷³ Sirmond., in præf. de antiquo more promovendi Episcopos, tom. 8. Concil. edit. Labeauce. Pedro de Maria, De Concordia Sacerdot. et Imperi., lib. 8. cap. 9, et seq.

⁷⁴ Wilhelm. Malmesburiens., lib. 2, de Gestis Regum Angliæ.

⁷⁵ Ditmar. Merseburgens., in Chronico Thomassin., de Vet. et Nov. Eccl. Disciplin., pte. 2, lib. 2, cap. 38.

⁷⁶ Rupprecht, ubi supra, No. 10, ibi, "Vigente illa disciplina soli Episcopi habebant suffragia electiva; clerus verò et populus tantum postulativa et informativa." Florent., ubi supra, pag. (mini) 138 et seq. Concil. Antioch., can. 16, 18, et 19, quos explicat Petrus de Maria, de Concordia Sacerdot. et Imp., lib. 1, cap. 5. S. Basil., Epist. 62, ibi, "Petere quidem vestrum est, domini vero designare." Synodi nempe judicio, as explained by Pedro de Maria, ubi prox. § 5, et Thomassin, ubi supra, pte. 2, lib. 2, cap. 5.

suffragans.⁷⁷ To these was presented the decree of the so-called election, which in strictness was nothing more than a petition; they inquired into it, and finding it in conformity with the canons, immediately ordained the person elected, without any previous formal act of approbation or confirmation; and the ceremony of consecration supplied the place of the real election and confirmation of the person designated, who previously to his consecration neither had the title of Bishop nor administered the bishopric, nor had contracted any tie with the Church.⁷⁸ The real power of elections then was in the Provincial Bishops, who were bound to suppress the injudicious votes of the people, and were strictly admonished by the canons not to follow them blindly.⁷⁹

However, as it was contrary to the real interests of the Churches, that such Bishops as the people desired should not be appointed, when the candidates were fit and proper persons, they were always consecrated.

Concurrently with the decree of popular election, we will treat of the effects of the nominations which, about the same time, were made by Princes, which nominations likewise gave no right or title, and were simple petitions or mere recommendations of the persons nominated, which only came to have the force of right when the Metropolitan and the Provincial Bishops, after canonical examination, consecrated the persons so nominated; nor did they assume the title of Bishops before they had received episcopal ordination.⁸⁰ Nor is the identity of the three acts without precedent according to the discipline of the Church, for at the same epoch there was no distinction between the ordination of priests and their collation to benefices, the practice of promotion of unattached priests (*presbyteros vagos*) on title of patrimony (*a titulo de patrimonio*) and without obligation to any certain office in the Church, not being yet received.⁸¹

CHAPTER II.

Of Elections by the Chapters, and of the Confirmations and Consecrations by the Metropolitans, from the time of the publication of the Decretals in the 12th century to that of the Pontifical Reservations in the 14th.

§ 1. The sanguinary question of investitures raised in the eleventh century by Pope Gregory VII against Henry IV, Emperor of Germany, in order to compel him to desist from the approbation of Bishops, and from the confirmations, in consideration of their temporal domains and Imperial fiefs, obtained from him by such prelates by delivery of the ring and crozier, symbols of their spiritual jurisdiction, induced that Pontiff to devise the project of excluding altogether from episcopal elections, all interference of the laity whatever.¹

§ 2. On the other hand, the clergy had become numerous, not only by

⁷⁷ Concil. Nicen., can. 4, ibi, "Episcopum opostel maxime quidem ab omnibus, qui sunt in provincia ordinari." Where the Greek word "cheirotoneion" was used, which also signifies the election. Rupprecht, ubi supra, No. 9 et 104.

⁷⁸ Barthel., tom. 2, Opusc. Jurid. op. 4, pag. 459, ibi, "Neque enim putes olim confirmationem fuisse actum distinctum, longoque intervallo distantem à consecratione, sicut hodie, sed Metropolitanus plerumque legitime electum prævio examine una cum suffraganeis suis per manuum impositionem consecrando sæpius confirmabat, et confirmando consecrabat." Van Espen, ubi supra, tit. 13, cap. 1, No. 11, ibi, "Neque etiam eo tempore electio illa plebis jus aliquod ad rem dabat ipsi electo, sed potius erat simplex postulatio ipsius plebis et cleri de persona sibi grata ordinanda in suum pastorem. Quia tamen voluntati, desiderioque populi non consentire difficile erat, atque invitis et reluctantibus pastorem dare infaustus non raro pariebat effectus, hinc multum solliciti erant Episcopi, ut vitè populus instrueretur, atque ad postulandum idoneum induceretur."

⁷⁹ Celest I ad Episcop. Apuliæ, ibi, "Decendus est Populus, non sequendus, nosque eos quid liceat, quid non liceat, commonere, non eis consensum præbere debemus." In cap. 2, dist. 62.

⁸⁰ Thomassin, ubi supra, lib. 2, cap. 5, § 7.

⁸¹ Van Espen, ubi supra, tit. 14, cap. 1, No. 7, ibi "Quo vero tempore Confirmatio Episcoporum ab ipsa ordinatione caperit sejungi, et suos speciales effectus producere incertum est: admodum visibile est nonnisi circa Sæcul. 11 aut 12, initium habuisse; dum scilicet beneficiorum collatio, et provisio ab ipsa ordinatione separari cepit. Ipsa enim moderna Episcoporum confirmatio in effectu est Episcopatus collatio seu provisio, quæ similiter ut beneficiorum provisio in ipsa ordinatione fiebat." Barthel., ubi supra Opusc. 2, No. 1.

¹ Barthel., tom. 2, opusc. 2, sect. 6. Schwartz, Imperii Princeps Ecclesiasticus. 4th. 4th Graveson., Hist. Eccles., tom. 4, colloq. 3. Rupprecht, as cited from No. 26. Van Espen, J. Eccl. Univ., pte. I, tit. 13, cap. 3, No. 12.

the great increase of the number of parishes within and without cities, which had become indispensable, on account of the successful progress of the Gospel, but also by the sentiment of devotion which induced the more powerful among the faithful to found oratories and chapels, and on the strength of such foundations to succeed in obtaining priests to be ordained for them; and it began to be seen that the attendance of the clergy also caused difficulties, delayed the elections, and disturbed their peace and order. The Eastern Fathers, convinced of the necessity of obviating this mischief, transferred the whole right of the clergy to the Bishops in the eleventh century, and confined episcopal elections to the Bishops.²

§ 3. Gregory VII took a different course, and withdrawing them from the clergy and people, who even in his times took part in them, simultaneously assigned them to the chapters of the cathedral churches. However, notwithstanding all his efforts, he could not succeed in establishing generally this great innovation; for we find that as late as the twelfth century, elections were still decided by the votes of the clergy and people. Pope Innocent II was elected in the course of the year 1130 with the concurrence of the people and clergy.³ He, however, on the ground that such a system of Pontifical elections was liable to serious objections, ousted the clergy and people from them, and establishing the form observed to this day, summoned to them only the College of Cardinals, founded on their having been anciently the incumbents of the parishes of Rome, and representing the principal clergy of the Roman Church; and although the Roman clergy were at first unwilling to waive their rights, yet Celestin II, Innocent's successor, was elected by the Cardinals in the year 1143, and the third Lateran Council, held under Alexander III in 1179, approved and confirmed the elections made by the Cardinals; so that these new high offices were from that time exalted to the privilege of giving a Head to the Church, to the entire exclusion of the College of Bishops, the real representatives of the Apostolical College, of the multitude of the faithful, and of the body of the Roman clergy, on whom the right of electing the Universal Shepherd of the Church had previously been settled.⁴

§ 4. Encouraged by this example, the canons of the cathedral churches made every effort to establish the change introduced by Gregory VII, claiming to themselves the right of electing their bishops, to the entire exclusion not only of the people, but also of the rest of the clergy. As nearly connected with the persons of the bishops, as the Cardinals with that of the Pope, and occupying like those dignitaries the first chairs after the Pontiffs in their dioceses, they considered also that they ought to be exclusively entitled to take part in the election of prelates. They supported this new claim by saying that the representation of the ancient presbytery or senate of the Church ought to devolve on them;⁵ that they ought to form one corporation with the bishops, and be their advisers; and, in short, that it was more consistent with natural reason, that the prelate who was to govern them should issue out of their body, in preference to the clergy of the inferior parishes; and that such was the practice of the Primitive Church, selecting the bishops always out of the clergy of the principal church.⁶ The event was answerable to their wishes. Elections by the chapters were agreeable to the Popes, and were received by them with much favour, for their imitation of the form of the elections of Pontiffs. Decretals began to issue approving of this practice, and laying stress on the argument that the prebendaries, together with the bishop,

² Rupprecht, in *Notis Historius et Crit. ad Dieret.*, ad tit. de Electione, No. 19.

³ Van Espen, p. 1, tit. 13, cap. 1, Barthel., tom 2. *Opusculor.* Opusc. 2, § 8. Rupprecht, ubi proxime. Francisco de Roye, *Instit. Jur. Canon.*, lib. 1, tit. 11. Henry, *Inst. Jur. Can.*, S. 1, cap. 10, § 9.

⁴ Onuphrio Pannino, in *Notis ad Platinam in vita Innocentii II.* Bohemero, in the notes to the *Cap. Licet.* in 6, de Electione, says that Innocent II had already been elected by the Cardinals, and that his election gave rise to the schism of Anacleto II, elected by the clergy and people; and quotes Florente, who does not say that, and accords with what Pannino writes. See Florente, ad tit. de Electione. Van Espen, pt. 1, tit. 13, cap. 1, p. 6. Concil. Later. sub Alex. III, an. 1179, can. 1 in *Cap. Licet.* 6, de Electione.

⁵ Barthel., ubi supra, Opusc. 2, § 8. Van Espen, pt. 1, tit. 13, cap. 2; Fran. de Roye, *Inst. Jur. Can.*, tit. 11. Henry, ubi supra, § 9.

⁶ Cap. 11, 12, et 13, Dist. 61. Florente, ubi supra.

formed one corporation (of which there is no record in preceding canons), they excluded the clergy, not only from the elections of bishops, but also from their ordinary council; appointing the chapters to be the peculiar counsellors of such prelates in all the business of their dioceses, to the exclusion of the parochial clergy, who being called to participate in the pastoral case, ought to hold perpetually the same post in the council of bishops, which they held in the ancient presbytery of the Primitive Church. The Pontiffs took measures for introducing them uniformly into all the churches, canonizing them as holy, and as the fittest means for the good appointment of bishops. A great part of the decretals of the collection of Gregory IX have no other object than the regulation of these elections by chapters, and the decision of the many questions to which they gave rise. The General Council, the fourth Lateran, completed the establishment of this practice, ordering the observance of it, and giving the elections a more regular form.⁷

§ 5. The Sovereigns who by their patronage—by the privileges and legitimate usages of their churches—had already acquired the right of appointment of bishops, under the conviction that it might appear a want of piety and of zeal for the interests of the Church, if they did not contribute on their part to carry out a method of appointing bishops, sanctioned by Papal canonization, and directed to be observed by a General Council as the one most advantageous to the Church, did not resist its introduction, and complying with the wishes of the Popes, neither defended the rights of the people over whom they were placed, nor were anxious to maintain the prerogative of their patronage, and resigned the elections to the chapters, being satisfied with the obligation to obtain their ratification after the elections were held, which some were not solicitous to reserve. In this manner, elections by the chapters came to be introduced, beginning towards the close of the eleventh century, making great advances in the twelfth, and attaining their complete establishment at the commencement of the thirteenth.

§ 6. The confirmation of the bishops elected by the chapters was retained in the jurisdiction of the metropolitans of the provinces, who about that period found themselves in the exercise of the office of inquiring into and approving the elections of their own authority, without summoning the suffragan bishops to be present at them; a right which they had acquired by imperceptible degrees, in consequence of the difficulty experienced by the latter in attending at the proper time.⁸ When it happened that the prelates-elect required any dispensation, the grant of which was reserved to the Holy Apostolic See, or that any question arose regarding the election, which might have to go to the Holy See by way of appeal—the Popes were in the habit of confirming the bishops-elect; and in general they exercised this office with respect to all bishops elected for churches exempted from metropolitan jurisdiction, and immediately subject to the Holy Apostolic See, as well as with respect to the prelates elected to metropolitan sees, all of whom were bound to apply for the confirmation of the Pontiff, as the immediate superior to whom they rendered obedience. This power of confirming was exercised also by the Legates *à latere* in their provinces, as well with respect to bishops exempt as to the metropolitans of those provinces.⁹

§ 7. In consecrations there was no innovation deserving of remark. They continued to be solemnized with the authority of the metropolitan who confirmed, three bishops being present on all occasions, without any further alteration than that the attendance of titular bishops was sufficient, the necessity of the consecrating bishops belonging to the province being dispensed with, as well as the written assent of the absent suffragans to the consecration. In case of the confirmation requiring to be obtained from the Holy Apostolic See, the consecrations were solemnized by authority of the Pope.

§ 8. After the introduction of elections by the chapters, the ceremony

⁷ Concil. Geral. Later. 4, referred to in the cap. Quia propter 42, de Electione.

⁸ Van Espen, J. Eccl. Univ. pte. 1, tit. 14, cap. 1, et tit. 13, cap. 1, V. fin. Barthel., ubi supra, Opusc. 4.

⁹ Cap. Si abbatem, 36, § 1, de Electione, in 6.

of election began to be separated from that of confirmation, and the latter from that of consecration; so that out of one simple solemnity, such as we have seen the ordination of bishops to have been up to the twelfth century, were formed three distinct solemnities, succeeding one another at stated intervals prescribed for them by law, each with its peculiar ceremonies and different nature and effects—a precedent for such separation being found in the ordination of priests from their collation to benefices, which had been introduced nearly about the same period, their promotion to orders (under title of patrimonies) being admitted, a practice up to that time unknown in the Church.¹⁰

§ 9. The election—which, up to the period of the introduction of elections by chapters, was not a title sufficient to confer any right, as being made by a people without judgment or education, being, however, conducted by a body of ecclesiastics composed most commonly of learned and God-fearing men, and behoving to be made in conformity with the Canons, which had carefully provided for its regulation—began to be looked upon as an act competent to confer a right on the bishop-elect of demanding the confirmation thereof from his immediate superior,¹¹ and of appealing from him to the next superior authority in case of such confirmation having been unjustly refused; and validity was ascribed to it to confer that right which jurists style *ad rem*.¹²

Confirmation which previously conferred no right of any kind, began to confer a right *in re*, and to be sufficient to authorize the person confirmed to exercise the power of episcopal jurisdiction; and at the same time another innovation not less unprecedented was introduced, the persons confirmed not only styling themselves bishops, but governing their sees as such, without having been as yet advanced to the order of bishops.¹³ Consecration remained requisite only for the acts peculiar to the order, though this ceremony previously to that age, included in itself by one act the power of the jurisdiction and of the episcopal order, and the name of Bishop.¹⁴

The Popes, who desired to justify the reservations which they had made in favour of the Holy Apostolic See of the translations of bishops, previously made by the provincial councils, availed themselves of the new distinction between the above-mentioned three acts, in order the better to produce the conviction that the close bonds whereby the bishops are united and attached to their churches, are those of true spiritual matrimony, and consequently only to be dissolved by the Vicar of Christ; and then the origin and degrees of this allegorical marriage began to be heard of, Innocent III representing it as commenced by the election, to which he gave the validity of betrothal, as ratified by the confirmation, to which he ascribed the virtue of marriage solemnized, and as consummated by the act of consecration, to which he imputed the effects of marriage consummated.¹⁵

¹⁰ Thomassin., pt. 2, lib. 2, cap. 8, N. 12. Rupprecht, ubi supra, ad tit. de Electione, § 4.

¹¹ Cap. Postquam, 3, de Electione. Reinsffenstuel, ad tit. de Electione, § 2.

¹² Reinsffenstuel, ubi prox. à b. 31. Van Espen, tit. 13, cap. 1, p. 11 et tit. 14, cap. , p. et 7, ubi supra.

¹³ Cap. Transmissam, 15, de Elect. Gonzalez, same cap. Schmier., Jurisprud. Can. Civil., lib. 1, tract 3, cap. 1, § 2, p. 520 et seq. Van Espen, ubi supra, tit. 15, cap. 5, p. 3.

¹⁴ Schmier, ubi supra, § 3, p. 57; Reinsffenstuel, ubi supra.

¹⁵ Innocentius III, an. 1198, in cap. inter corporalia; 2 et cap. Licet in tantam; 4 de translatione Episcop. Barthel. tom. 2, Opusc. 4, p. 470 ibi “secundum in eu colloso, quod per decem sæcula, et ultra, ignota prorsus fuerit verborum illorum forma, quæ connubium hoc spirituale per electionem initiari, per confirmationem ratum, et per conservationem demum consummatum fieri diceretur: quippe ex antiquæ disciplinæ praxi electio nudam designationem, non jus ad vœm, reliquum vero et totum effectum sola consecratio, dum neutiquam a confirmatione sejuncta, tribuebat. At dum in nova quæ tempore Innocentii III invaluit, disciplina, confirmatione a consecratione sejuncta, triplex tempus in matrimonio hoc spirituale, sicut in carnale considerari Cæpit, electio instar sponsalium, confirmatio instar matrimonii rati, et consecratio instar consummati habebatur.” Van Espen, ubi supra, tit. 15, cap. 5 e 6.

CHAPTER III.

Concerning the Abolition of Elections by the Chapters and of the Confirmations and Consecrations of Bishops by the Metropolitans, effected by the Pontifical Reservations introduced by the Rules of the Apostolic Chancery in the 14th century.

§ 1. It might reasonably have been expected that the practice of elections by chapters, which had been received with so much satisfaction, recommended with so much pains, and directed with so much vigilance, would have continued to prevail for a long time in the Church; but the changeableness of human things does not always respect even what is sacred. The Pontiffs, who at other periods had supported this practice with all their influence, were the first to interrupt and disturb it. Desiring to have something to bestow upon certain poor and learned clerks who attended the Court of Rome, as well as on the Cardinals who directed them and aided them with their advice in the government of the Universal Church, and persuading themselves that they could provide for them in any benefices in the gift of the inferior prelates by exercising the right of appointment concurrently with the ordinary patrons, and preventing them in the collation of every kind of benefice, without thereby doing them the slightest wrong, by the plenitude of their Apostolic power, they began to interfere with the right of the ordinaries and the elections of the chapters.

§ 2. Granting expectatives and mandates of preferment, and making reservations originally for a limited time and in particular cases, and perceiving in process of time that ambition found its way into chapters, which introduced among them discord, the spirit of intrigue, simony, and many other vices, and also that as the votes for the elections of prelates were fewer in number, so corruption became more easy, and that when bishoprics were filled by the election of the chapters, they were more liable to be filled by undeserving persons, they resolved to abolish altogether the system of elections by chapters, and reserved to themselves the appointment to all the bishoprics and archbishoprics in the world.

§ 3. The originator of the first special reserve was Pope Adrian IV, in the year 1154. After him other Pontiffs also continued to make them in particular cases, beginning at first by way of request, subsequently advancing to mandates, and at last giving at once expectatives which should have the effect of causing such reserves to be observed (*que fizessem observarlos*). Clement IV carried this innovation to a much greater length, for setting aside the limitation to special cases, he established the general reservation of all benefices, dignities, and churches, which might become vacant while the incumbents were at Rome; justifying it by the full right of disposal of all the benefices in the world, which appertains to the Roman Pontiff. Boniface VIII adopted the maxims of Clement; Boniface was followed by Clement V and Benedict IX, all of whom continued to introduce fresh reservations, and to avail themselves of the doctrine established by their predecessor, of the free and absolute right of the Pontiffs with respect to benefices.

However, all those (Pontiffs) had introduced them only in certain cases, the generality consisting exactly in the simple comprehension of all the cases in which they (such reservations) took their origin. (*Consistendo precisamente a generalidade na simples comprehensão de todos os casos em que ellas procediam*.)

Pope John XXII, disgusted with so many exceptions and so many special cases, put the last seal to the work of reservations; and throwing aside all disguise, reserved to the Holy Apostolic See the appointment of all the bishops and archbishops in the world, introducing, at the same time, the new revenue of first-fruits, which he imposed on the whole church, and which was afterwards made perpetual by Boniface IX and the schism of Avignon.

§ 4. It might be imagined that such an innovation ought to be the

work of a General Council of the Church, a provision of some general canon having the force of law, and a decision adopted with all the deliberation suitable to such an unprecedented change, which made the appointments of all bishops throughout all Christendom dependent on the uncontrolled will of one man; a right of appointment which the Apostles did not venture to exercise of themselves alone. Nevertheless, it was not so. It was the offspring of the Apostolic Chancery, begotten of the ambition of its officers, who, abusing the holy zeal and single-mindedness of the Popes, succeeded in persuading them, by the plausible pretences which we have mentioned, that such a measure was expedient and necessary for the best interests of the Church.

It was a decree temporary in its nature and without legal force; and withal it was a deadly blow to the system of election by chapters, and to that of the confirmation and consecration of bishops by the metropolitans, and a breach which the metropolitans and chapters were never afterwards able to repair.

CHAPTER IV.

Concerning the Resistance offered by the Chapters and Metropolitans to the Pontifical Reservations, and supported by Sovereigns; and concerning the Modification of Reservations, the Popes resigning the Appointment of Bishops to Princes.

§ 1. The disturbance which the new rule of the Roman Chancery caused in the Christian world cannot be described as it deserves.

The chapters cried out against it, because of their right of two centuries. The metropolitans cried out for their privilege of confirming and consecrating their suffragans, of which they had been in the uninterrupted enjoyment throughout thirteen centuries. The people cried out against the new revenue of first-fruits. And the Sovereigns cried out not only for the restitution of the right of the chapters, metropolitans, and people which they were bound to defend, but also for the prerogatives belonging to the Crown, which they perceived to be seriously attacked; while all in fact did no more than give expression to the silent suffrages of their churches and of their States; of the churches, because they fell into the hands of bishops who were either foreigners, not understanding the language of the people, or unknown to those who should have appointed them; of the States, because, besides being exposed to the danger of being thrown into disorder by foreign prelates, in many instances belonging to hostile nations, they now began to be impoverished by the extraction of the money which such prelates hoarded up for the time of their translation to sees in their own countries; an object of their unceasing ambition, and which, independently of such occasions, was continually flowing towards Rome in payment of first-fruits.

§ 2. The chapters and metropolitans resisted; the system of election by chapters still continuing in many places. Two bishops were in many instances seen in the same church, one elected by the chapter, the other appointed by the Pope; and neither party was willing to give way, to the great scandal of believers, and no less to the prejudice of the Church.¹ Nevertheless, the officers of the Chancery, who had prevailed on the devotion of John XXII, always succeeded in effecting their purpose. They successfully urged on the successors of that Pontiff the renewal of the same rule; and thus they were able to make it perpetual. Having issued into light, after the form of a pretorian edict, with the probability of being at an end with the life of its author, it came to have the validity of a perpetual edict, without further difference than the simple formality of its republication immediately after the installation of the Popes.

§ 3. Nevertheless, the remonstrants were not dispirited. They appealed to the General Council of Constance, held in the year 1414; but not being able of itself to apply the remedy which they called for, on account of the

¹ Contained in the Hist. Eccl., and the claims of the Gallican may be seen in the Council of Constance in 1414.

difficulties caused by the schism, that Council charged the Pontiff to be elected by it, with the task of hearing the provincial councils and the deputies of the several nations, and redressing grievances, before the dissolution of that holy assembly. This decree, however, was not carried into execution, for Pope Martin V, who should have complied with it, left everything in the state in which it had been before.

§ 4. The Universal Church having again assembled at the Council of Bâle, in the year 1431, the same cries were repeated, and as they had justice on their side, they were favourably received. The right of election was restored to the chapters;² the confirmation of the bishops-elect to the metropolitans;³ the new exaction of first-fruits was altogether quarrelled with⁴ (*destampon, se inteiramente com a nova imposiçao das annatas*); and the reservations introduced by the extravagantes, and the rules of the Chancery, were abolished, leaving in force such only as were comprised in the "*corpus juris*."

§ 5. This wholesome measure would have put a happy end to the dispute, had it been executed. But the fathers of the Council of Bâle wearied themselves with it to no purpose. The Apostolic Chancery was in no way disposed to reform its system. Having gathered an ample harvest out of the reservations and first-fruits, its officers could not consent to their abolition. They represented to the Pope, in a new light, the justice of the system of reservations; they showed new grounds for the necessity of maintaining the first-fruits, and adding a new picture of the disorders and vices which polluted the elections of the chapters, persuaded him that he ought in conscience to follow the steps of his predecessors, to keep everything in the state in which he found it, and not to carry into execution the decrees of a Council, which, having been legitimate in its commencement, had degenerated into an irregular meeting (*conciliabulo*). The Pontiff was convinced by these arguments, and all remained as it was.

§ 6. The Sovereigns perceiving that neither the chapters nor the metropolitans would be heeded by Rome, took the measure of supporting their cause with the greater earnestness, considering such a step expedient and necessary for the interest of the churches in their dominions, as well as for the political tranquillity of their States, threatened as it was with revolutions, which might be fatal to them in consequence of the Pontifical appointments.

§ 7. The Emperor of Germany, remembering the cruel wars occasioned by the famous question of investitures, negotiated with the Popes with great moderation, laid before them the complaints and grievances of the nation, and succeeded in putting a restraint on the mischief from which all parties were suffering. Frederick III concluded a Concordat with Pope Nicholas IV, in 1448, by which the right of election was restored to the chapters, while the reservations continued in the confirmations of the bishops were exclusively appropriated to the Popes, and the first-fruits were permitted to be still in force.

§ 8. The Pragmatic of St. Louis, King of France, is a most worthy record of the zeal wherewith that sainted Monarch distinguished himself above all the Sovereigns of France in the defence of ecclesiastical discipline, of the rights of ordinaries and chapters in his realms, and of the jurisdiction and prerogatives of the Crown. Clement IV had published in the year 1265 the first constitution, comprising a general reservation, prefixing to it a dissertation on the absolute and unlimited power of the Pontiffs to dispose freely of all the benefices in the world, vacant or not vacant. In opposition to that constitution, St. Louis came forward with his Pragmatic, enjoining in that instrument the strict observance of the rights of the ordinaries as collators, and of the election of cathedral churches; providing that preferments to the high dignities of the Church should be invariably made according to the form established by the holy councils of the Church, and in conformity with the statutes of the Fathers: passing judgment on the simony which in that age was laid to the charge of the

² Concil. Basilia, sess. 22, 23, cap. 5, 6.

³ Concil. Basil., sess. 12 and 13. See the Theological Demonstration of Padre Antonio Perreira Figueredo, prop. 15.

⁴ Concil. Basil., sess. 21. See the quotation of Perreira, ubi supra, prop. 16.

institution of the first-fruits, and prohibiting the heavy pecuniary contributions and exactions by which the See of Rome had impoverished his kingdom. And the chief thing is, that it does not appear that the Pope made any remonstrance; on the contrary, his zeal was generally applauded by the Pontiffs, and the Church venerates him accordingly.

§ 9. The Council of Bâle having been held, Charles VII convened the estates of the kingdom at Bourges, and published a new and more ample Pragmatic, in which he accepted, introduced and enjoined the observance of the decrees of that Council with regard to the election of chapters, confirmations of bishops, and the abolitions of reservations and first-fruits. Eugenius IV resisted this Pragmatic with energy; and his successors kept up the same opposition for seventy-eight years, until Leo X put an end to these protracted disputes, and succeeded in obtaining the revocation of it in the Fifth Lateran Council, concluding with the approbation of that Council a Concordat with Francis I, in 1516, according to which the Pope ceded to the King the appointment of bishoprics, retaining the confirmation of the bishops-designate, and the perception of first-fruits. This Concordat was ill received by the chapters, metropolitans, and all the estates of France. The Parliament protested against it, and declared in favour of maintaining the Pragmatic of Charles. They accused Leo X of sacrificing the spiritual right of election, in order to save the temporal right of the first-fruits. Francis I himself deemed the Concordat a violation of his conscience. But the approbation of the Lateran Council caused all his scruples to vanish. Elections by chapters were abolished in France; the Sovereigns were invested with the right of appointing bishops; and the confirmations of the prelates appointed were reserved to the Pope.

§ 10. The churches of England were no less sensitive to the violation of their rights. The temper of the English could not submit with a good grace to the introduction of the new discipline. It was resolved in Parliament that the King should put an end to the irregularities of the recent change; that the right of election should be restored to the chapters; that the rights of the ordinary to collate should be respected; and that the remittance of money to Rome should be prohibited, which enfeebled and unnerved the State. And the Kings caused their Ministers to notify this resolution to the Popes. Notwithstanding this, Clement VI preferred two Cardinals to benefices of the English church, and the appointees ordered their proctors to take possession by instalment. Edward III, however, forbade the execution of the commission, ordered the commissioners to be arrested, and expelled them from the kingdom; and when the Pontiff mildly remonstrated with him for his conduct in this matter, he replied to him in a very feeling letter, full of the soundest arguments, representing the mischiefs of the new discipline, and in conclusion entreating him to leave the elections of their prelates to the churches, and to observe that the right of appointing them belonged in former times to the Kings his predecessors, who had, only at the solicitations of the Popes, ceded it to the chapters, under certain stipulations. In the same terms he again wrote to the same Pontiff, on the occasion of a fresh appointment made by him in the person of William Barkman to the Bishopric of Norwich.

§ 11. The Kings of Spain participated in the sentiments generally entertained by other Sovereigns. They, in the first place, joined their own representations with the petitions of their cathedrals and metropolitan sees; and urgently entreated the Roman ecclesiastical power not to persist in the innovation which had become such a grievance to them, and was so prejudicial to their dominions. Alfonso XI, in the most deferential manner, laid before Pope John XXII the very serious mischiefs of his reservation. The matter, however, was of high interest to Rome; and success was not to be obtained by remonstrances and intreaties. His successors, perceiving this, took a higher tone, and declared their resolution of resuming the ancient right of appointment to bishoprics in their realms, which belonged to them from time immemorial from descent from the Gothic Kings, who were in the exercise of it in the century (sic in orig.), and they began to enforce it. The Pontiffs hesitated at first

to acknowledge it, but afterwards they took the middle course of confirming and appointing the prelates named, under the title of *supplica* (petition); refusing to accept certain appointments, under the pretence of the appointees not being fit and proper persons, and claiming to retain the liberty of anticipating the Royal appointments by their own provisions.

§ 12. The Kings of Spain, however, resisted with firmness these Papal anticipations. Henry IV of Castile prevented the instalment in the See of Leon, of John Cardinal of St. Sisto, appointed by *Motu Proprio* of Pius II, which gave rise to various disputes. On the death of John IV, King of Arragon, before the confirmation of John Nepote, whom he had appointed Bishop of Turiessa, Sixtus IV appointed André Martins to that see; but Don Ferdinand the Catholic, successor of John, being informed of this appointment, immediately named to the same see Cardinal Pedro Gonsalves de Mendouça, signifying to the Pope's nominee, that he must immediately resign the bishopric, which he had obtained without his approbation, under pain of being banished from the kingdom, with all his followers, should he act in opposition to the Royal will; and he represented to the Pontiff by his Ambassador, that he desired he would pay him the respect of waiting for his *supplicas* (petitions), and not give occasion for disputes; for however contrary they were to his wishes, and his desire of obeying the Pope, and showing him every attention, the necessity of defending his own rights would compel him to enter into them. This resolution gave occasion to some quarrels, but at last the Pope confirmed the Cardinal in that see.

§ 13. The same Pontiff, Sixtus IV, admitted the right of the Catholic Sovereigns issuing in their favour letters in form of a perpetual indulgence, in order that in their realms such persons only should be made bishops as they might make suit for. This indulgence was subsequently further extended in the year 1523, by Pope Adrian VI, in favour of Charles V and all his successors, to the effect that they might appoint bishops in their realms, by way of actual presentation, excepting only such as became vacant while the occupiers were in attendance at Rome.

Clement VII afterwards revoked this grant of Adrian, ordering bulls to be issued to the nominees of the Catholic Sovereigns, with the expression "*supplica*;" but afterwards, coming to terms with Charles V, he restored the concession of Adrian, and extended it to the bishoprics vacant during residence at Rome, which Paul III confirmed on the 9th July, 1536.

§ 14. After the same manner the Popes came to terms with the other Sovereigns, preferring the cession to them for ever of the right of appointing bishops in their kingdoms, to the alternative of restoring the elections to the ecclesiastical corporations: either because they in fact judged that, on the exclusion of the multitude from the holy elections on account of the irregularities of which they were guilty, the appointments ought to belong to Princes, as heads of the Christian people, while the right of confirmation vested in the Popes as heads of the clergy; and wisely hoped that, Princes being protectors of the Church, defenders of the canons, and common fathers of their people, and behoving to be responsible to God for the disorders which they permitted among them, and having their hearts in the hands of the Lord, he would influence them to observe all due circumspection in their appointments, by preferring always the most deserving, and having in view only the good of the Church; and were really convinced on all these grounds, that this way of calling the Apostolic ministers secured the peace of the churches, and entirely closed the door against the iniquities which had polluted the elections by chapters;—or because the advisers of the Holy See, having their eyes opened by the experience of many years, had at last perceived that a consent to share their patronage was the only plank on which they could save the confirmation of bishops, which insured them a very large issue of bulls, and many contributions of first-fruits, and added considerably to the revenue of the Pontifical Chamber and Chancery.

§ 15. Terms being thus made between Kings and Popes, the chapters were mute, leaving their right in the hands of Princes by way of compromise; the metropolitans were silent, wisely accepting that which they

could not prevent; and the people consented, seeing that the prerogatives of the Crown were secured. The reservation to the Holy Apostolic See of the right of filling bishoprics ceased altogether; and although, when it ceased, the right of depriving metropolitans of the right of confirmation also ceased, inasmuch as there was nothing unbecoming in bishops who now received their appointment from the Sovereign, proceeding to demand their confirmation at the Metropolitan See, according to the forms observed in the ancient appointments of the Gothic Sovereigns; nevertheless, as such a course was not expedient for the interests of Rome, nor consonant with the maxims of extension of the Pontifical power, the reservation still continued with regard to institution to bishoprics—all bishops, when elected and appointed, being bound to sue out their confirmation from the Holy Apostolic See, according to the usage confined, before the reservations, to the suffragan bishops of the Metropolitan See of Rome, and to bishops of exempt jurisdictions, and on that account subject immediately to the Apostolic See.

The holy imposition of apostolic hands, in which consists the act of ordination and consecration of bishops, continued to be committed to any bishops, even though only titular, by general commission from the Pontiffs who granted confirmation; the practice of performing a ceremony of such solemnity by the provincial bishops being thus set aside, while that only of requiring the number of consecrating bishops prescribed by the Council of Nice, was retained.

§ 16. In like manner the distinct character of the three acts of election, institution, and consecration, and of their corresponding effects, continued unaltered.

This, as we have seen, was the consequence of the introduction of elections by chapters, having been unknown under the ancient canons, and only established by the new Decretals published in the twelfth century, out of which was framed the common law of the Decretals of Gregory IX, Royal appointments taking the place of capitular elections, and giving likewise a title to the nominees to require and obtain the approbation thereof before their respective superiors.

§ 17. While this discipline prevailed, in the middle of the sixteenth century, the Holy Council of Trent was held, which putting an end to expectatives, mandates of provision and mental reservations, and modifying in a great measure the abuse of exemptions, vested in the Sovereign the right of appointment of bishops which they were exercising, only admonishing them to use that right in the spirit of the Lord, and with their views directed to the good of the Church; and did not deprive the Pontiff of the right of confirmation of bishops-elect or appointed, nor made any change in the established practice of confirmation; leaving also the perception of first-fruits without alteration. This is the modern law observed generally at this day in the Church; save only some indulgences, privileges, or special customs, which cannot make a rule, nor constitute universal and common law.

PART II.

Of the Polity of the Lusitanian Church on the same subject matter.

CHAPTER I.

From the introduction of Christianity to the time of Count Dom Henry.

§ 1. The polity of episcopal elections, confirmations, and consecrations, was, in Portugal, regulated after the same manner, and underwent the same modifications and changes as it experienced in the other provinces of the Western Church. Our holy religion, once happily introduced, provision was made for the ordination of bishops, who, discharging with apostolic zeal the duty prescribed to them by Christ, through his Apostles

their predecessors, of feeding the sheep, might water the tender plants of the faith with the wholesome waters of evangelical doctrine; might spread abroad the seed of the Gospel; and might cultivate with diligence the Lord's new vineyard, fulfilling worthily the obligations of the Apostolic office.

The forms observed therein were the same which we have shown to have been practised by the Apostles in conformity with natural reason and divine tradition, and which we have seen to have been recommended by the holy Fathers, ordered to be generally observed by the Popes and by the Councils, and universally carried out in practice throughout all the churches. St. Cyprian, writing to the people of Spain in the third century, urges upon them the holding of the elections for the sacred ministry according to the Apostolic form; and his counsel was followed as long as the dominion of the Romans lasted, and even subsequently up to the date of the conversion of Theodomir, King of the Sueves, to our holy faith, in the year 563; the clergy and people taking part in such elections, as far as the cruel persecutions which arose from time to time against the Christian name, permitted them; and the elections being examined, and the individuals elected being consecrated by the Metropolitan and the provincial bishops, according to the provisions of the canons and the practice generally observed in all the churches.

§ 2. After the conversion of Theodomir to the Gospel, the sanction of the Royal assent began to be attached to them. St. Martin, Bishop of Dume, was elected by the clergy and people to succeed Lucrecius, Archbishop of Braga, with the approbation of that Monarch; and from that period the influence of the Sovereigns in the elections of bishops was so constant, that throughout all the changes which took place in them, the practice of obtaining the approbation of the Prince was invariable.

§ 3. The dominion of the Sueves being put an end to, and Lusitania having been seized by the Gothic Prince Leovigild, in 585, Christianity in Portugal suffered much from the efforts of that Prince to induce it to embrace the Arian heresy, by obliging the bishops to subscribe according to the form of the Council of Rimini, and by driving out of their sees those who had the firmness to resist his power. The storm, however, did not last long, for, on the death of Leovigild, in the following year, his successor, Recaredo, being converted to the true religion by St. Leander, Bishop of Seville, abjured Arianism, restored the prelates, together with their property of the churches, and re-established the election of bishops, which continued to be made in the presence of the clergy and people, and with consent of the Sovereign.

§ 4. The approbation of the Sovereign became in process of time, at the beginning of the seventh century, an appointment independent of the clergy and people. The Gothic Princes began to appoint bishops, presenting the appointments to the provincial councils, which inquired into the qualifications of the individuals so appointed; and on ascertaining their fitness, proceeded at once to confirm and consecrate them according to the practice generally observed in that age.

§ 5. Afterwards, the calling together of the Councils proving to be inconvenient, and the prompt attendance of the provincial bishops becoming difficult, by reason of the great distances, which, in connexion with the advanced ages of most of them, and its consequent infirmities, prevented their being able to assemble with the expedition suitable to the interests of the vacant churches, the Fathers of the Twelfth Council of Toledo, held in 681, determined that the Archbishop of Toledo, who occupied his chair in the city where the Sovereigns resided, might, with a reservation in favour of the privileges of the metropolitan sees, confirm the appointments made by those Princes, and consecrate the individuals so appointed, even though they might be suffragans of other Princes; such bishops being only under the obligation of presenting themselves within three months to their respective metropolitans, in order to take before them the oath of obedience.

§ 6. The Gothic Princes retained this prerogative until the downfall of their power at the death of the ill-fated Dom Roderick, which took place in the year 714, on the invasion of Spain by the Moors, assisted by the

infamous treason of Count Julian. Spain having been occupied by the Saracens, the regular order of elections of prelates was broken, and the churches (the places of worship being converted into mosques) remained for a long time vacant, without bishops, without clergy, and without a Christian people. The few Christians who were enabled to escape the fury of the barbarians, took refuge in the mountains of the Asturias, where they chose for King Dom Pelayo, who, issuing from those wilds to make war on the Moors, recovered out of their power many cities and churches. His successors, continuing the same war, succeeded in acquiring progressively much territory in Leon and Lusitania, where King Alfonso the Chaste occupied Lisbon in the year 791, until with the increase of their force they were enabled to recover all that had been lost, and to deliver Spain from the Saracen yoke, under which it had groaned for nearly eight centuries.

§ 7. The churches being restored, divine service was thereupon re-established in them; the ruined places of worship were repaired; mosques were consecrated; new churches were founded, endowed, and built. Thus these Princes added to the glorious acquisition of the right of appointment enjoyed by the Kings their predecessors, and gained at the price of their blood, while they wrested these churches out of the hands of the unbelievers, fresh titles most firmly established and favourably regarded in law. It does not, however, appear that they at once regularly began to exercise the right of appointment, by naming the bishops according to the manner in which the Gothic Princes named them: either because the concerns of the war did not allow them to recognize thoroughly the value of this royal prerogative, or through devotion, and out of respect to the way of appointing bishops introduced by the Apostles, and generally observed in the Church; or, lastly, out of compliance with the desire of the Popes, who even in those times endeavoured to detach secular Princes from the elections of the ministers of the Church.

§ 8. Accordingly, the elections of bishops were carried on in the Apostolical form, the clergy and people taking part in them, and the consent of the Sovereign being always solicited. The confirmations and consecrations fell again into the hands of the metropolitans. Any questions of doubt which were raised with respect to them, were decided by the provincial councils, or by the Popes, if the parties appealed to them; and the Popes frequently sent them back for the decision of those Councils.

§ 9. On some occasions the Kings made request to the Popes for certain prelates; on others they caused them to be elected by the clergy and people, and by the nobility. The Pontiffs sometimes collated those for whom the Kings made request; at other times they refused them, but always on the ground of their unfitness; and if they gave orders for proceeding to an election, it was always subject to the Royal approbation. Don Ferdinand the Great, King of Leon, appointed Dom Paterno, Bishop of Tortosa, to the Bishopric of Coimbra; and this appointment not taking effect, his son Don Alfonso VI did the like. The same Don Alfonso VI made request in behalf of an abbot, who was immediately collated by Gregory VII; but his request in behalf of a successor named for Bishop of Aragon, as well as of an Archbishop for the See of Toledo, met with a different reception: for the same Pope rejected both, because the persons named were unfit; and he wrote to that Sovereign to select another person for the Church of Toledo, with the advice of the Apostolic Legate and certain monks; while he directed the Bishop of Aragon to name his successor with the consent of the clergy and of the King. The church of Burgos being vacant, the Archbishop of Toledo, its metropolitan, named a bishop to that see without the consent of the King and of the people, who, on their part, named another bishop without reference to the archbishop. An appeal was made to Pope Pasqual II, in order to settle the question; and that Pontiff directed the Provincial Council to be convened, and to decide the matter in dispute according to customary usage.

CHAPTER II.

From the time of the Count Dom Henrique to King Alfonso V.

§ 1. Our Lusitania having passed with the title of Sovereign county, under the dominion of the Count Dom Henrique, an illustrious branch of the royal House of Burgundy, and the glorious progenitor of our invincible Monarchs, by a grant made by his father-in-law, King Don Alfonso VI of Leon and Castile, in the year 1090, together with all its prerogatives and annexed rights, such as he had held them; it happened that shortly after the church of Braga became vacant through the deposition of the Archbishop Dom Pedro; and it being the wish of the new Sovereign that it should be immediately filled, he ordered an election to be made, and with his consent and that of his father-in-law, the King Dom Alfonso, the choice of the clergy and people fell upon S. Giraldo, who being himself metropolitan, was confirmed and consecrated by the Archbishop of Toledo as Apostolic Legate.

§ 2. The venerable King Dom Alfonso Henriques, after having taken Lamego from the Moors, named as its first bishop, Dom Mendo, a regular canon, in 1144, with the consent of the kingdom, the clergy, and the people, and of the Archbishop of Braga, Dom João Pegulhal, who, being the metropolitan, confirmed and consecrated him. At the death of Dom Mendo, Dom Godinho Zaleme was named as his successor, and was confirmed by Pope Alexander III, and consecrated by Cardinal Jacinto, Apostolic Legate.

On the restoration of Lisbon, the King named as its bishop, Dom Gilberto, who was confirmed and consecrated by Dom João Pegulhal, Archbishop of Braga, which was recognized as the metropolis.¹ Dom Gilberto afterwards elected as coadjutor, by consent of the chapter, Dom Alvaro, whom he consecrated himself after his confirmation by the same Metropolitan, Dom João Pegulhal, in 1164; and the chapter having afterwards raised questions with Dom Alvaro on the succession of the Bishop Dom Gilberto, Pope Alexander III confirmed the election of Dom Alvaro in 1168.

The Bishopric of Coimbra becoming vacant, the clergy and the people elected Dom Tello, the founder of the monastery of Santa Cruz de Coimbra. The same King named as bishop, Dom Bernardo, a Frenchman, and the appointment of the King prevailed. On the taking of the cities of Viseu and Evora by the same Sovereign, he immediately named Dom Sociro, Bishop of Evora, and Dom Odosio, for Viseu.

The King Dom Sancho I conceived the project of reviving the ancient right of the Gothic Sovereigns. On vanquishing the city of Silves he named as its bishop, Dom Nicolau, and wishing to establish a decent income to that cathedral, he caused, on his own authority, in the year 1189, all the bishoprics of the kingdom to contribute to the same.

Taking subsequently the city of Guarda, and transferring to it the Cathedral of Idanha, he requested of Celestin III a bishop capable to govern it. Some years after he named as bishop of that see, Dom Vicente, Chancellor of his kingdom, and asked for his confirmation by Innocent III.

With the same authority he also filled all the ecclesiastical benefices which from time to time became vacant, and gave rise to the complaints of the said Pope against these appointments, under the plea that the elections of ecclesiastical communities had been established by Pope Gregory VII, and should also be observed in the churches of this kingdom, on their delivery from the captivity of the Moors.

In this same reign, the Chapter of Viseu elected Dom Nicolau, a regular canon, bishop, in 1195, who resisted the election for the space of two years; and going to Rome to excuse himself, Innocent III confirmed and consecrated him, recommending him to the said Monarch, which proves that he had not consented to his election.

¹ To be found in the Hist. See especially the Hist. of the Church of Lisbon, by Dom Rodrigo da Cunha.

§ 4. During the reign of Alfonso II the fourth Lateran Council was held in the year 1215, which approved in general, regulated and extended the custom of the chapters elections, assuring the confirmation of them to the metropolitan prelates. The authority of this Council was useful to the chapters of our churches. Their elections became more general, being admitted in some sees where they had not been practised, and being continued in others where they were already admitted. Previous to this Council, Dom Estevão Soares da Silva was elected Archbishop of Braga by the canons, and having been confirmed by Pope Innocent III, he assisted at the said Council as such; and since the year 1118 we find the chapters elections observed in the same church, inasmuch as Dom Payo Mendes was elected Archbishop of Braga by the chapter, and was the first archbishop of that primacy that we find elected by the canons without the concurrence of the clergy, who were however present at the election of his predecessor, Dom Mauricio.

§ 5. The chapters elections were not, however, received in all churches. In some, the nomination of the prelates by the King continued: such are, the church of Silves, to which, in 1254, we find Frei Roberto appointed bishop by the King Don Alfonso the Wise, of Castile, during the period that he enjoyed the *usufruct* of the Kingdom of Algarve, by agreement made with our King Alfonso III, being bound to ask the consent of the latter, who not only denied it to him but solemnly protested, in the presence of all his Court, against this nomination, stating himself to be the only true Lord and patron of the church and city of Silves, and that he alone was competent to present to her a bishop; which was afterwards formally admitted by Dom Bartholomew, bishop of that see, in 1270. And in the same manner the church of Guarda, where no instance is on record of the appointment of bishop by the election of the chapter, and that it was not within the province of the Pope, is shown by a reservation made once only by Nicolau III, in the year 1278, transferring to that see Dom Fr. Martins, Bishop of Cadiz, during the reign of the same Monarch.

§ 6. In the churches where the elections of the chapters flourished, the Sovereign always preserved the right of having their consent asked after the election was made, not only as Kings and for the general reasons of protectors of the Church, and defenders of the canons and of the peace of the civil empire, but also as true patrons; and it was only with this condition, either expressed or tacitly understood, that the chapters elections were admitted, preserving in their right of appointment the royal prerogative of their grant of consent. And so far was the consent of the Sovereign necessary in the above-mentioned elections, that without it the confirmation of the party elected did not take place. In support of this truth is to be mentioned what passed on the election of Dom Pedro Annes, Bishop of Lamego, as after the election was celebrated, the canons asked the consent of the said King, Dom Alfonso III, as the true patron, and he refused it, but wrote to the Archbishop of Compostella, who was then the metropolitan, that he might examine and approve the election. This precious monument of the right of appointment by our Sovereigns is preserved in the archives of Santa Cruz de Coimbra, and we owe its discovery to the Liturgical Academy.

§ 7. During the long reign of the King Dom Deniz, the chapters elections continued in those churches where they had been admitted. They took place at Braga, in the promotions of the Archbishops Dom F. Tello, Dom Martinho de Oliveira, Dom João Martins de Fralhães, and Dom Gonçalo Pereira. At Evora, in those of the Bishops Dom Domingos Jardo, and Dom Gonçalo Pereira, who had for a competitor of a part of the votes, Dom João Alfonso de Brito, whose election the said King caused to be impugned at Avignon, stating it to be null as having been made without his consent. At Lisbon, in those of the same, Dom Domingos Jardo and Dom João Martins Soalhães. Some pretend to prove the custom of elections by chapters in the same reign with the 28th Article of the Concordia of the King Dom Deniz; but it is clear that it only refers to the elections of collegiate and minor churches.

§ 8. About the same period we find Dom Fr. Estevao appointed Bishop of Oporto by Pope Clement V, on the removal of the Bishop Dom

Giraldo Dominguez to the See of Palencia in 1310, transferred from Oporto to the See of Lisbon by the same Pope, on the removal of Dom João Martins de Soalhaes to Braga, and Dom Fernando, nephew of the said Dom Fr. Estevão, appointed his successor to the mitre of Oporto by the same Pontiff.

We find Dom Gonçalo Pereira appointed bishop at Lisbon in the year 1322 by the Pope John XXII, by the removal of Dom Fr. Estevão; and this Pope afterwards appointed Dom João Affonso de Brito to the same bishopric in 1326, he being then at Avignon, on the removal of Dom Gonçalo Pereira to Braga. We find Dom Domingos Jardo and Dom João Martins de Soalhães elected in succession to the same See of Lisbon, confirmed by the Pope and not by the Metropolitan; all of which was the effect of the reservations, of which the said two Popes were great promoters, and shows that that of the bishoprics which became vacant by removal or renunciation was practised in their time, although only published in the form of law by Benedict XII, in 1335.

And of this ample proof is furnished by the Chapter of Oporto, which, being informed that Clement V wished to remove from their see the Bishop Dom Fr. Estevão, in 1314, wrote immediately to him asking for a good successor, and deputing two canons to the Court in order to consent in their name to the appointment made by the Pope. Whereby is seen the gradation by which the total exclusion of the chapters was arrived at, the appointments by reservation beginning by being made with their approval of those appointed, and being subsequently made without consulting them.

§ 9. The introduction of the reservations, and of the revenue of first-fruits, of which they form the basis, affected the King Dom Deniz very much, who, in the midst of the serious discords with the clergy which arose in the just defence of his Royal jurisdiction, always preserved great zeal in maintaining the just rights of the Church of his realm. He saw the rights of the chapters annihilated; the prerogative of the metropolitans attacked; the rights and prerogatives of the Crown disregarded; and his people oppressed with fresh taxes: and he clearly foresaw the dangerous consequences of so many innovations. But his death prevented him from seeing the full extent of them; nor was he able to stifle them in their infancy. The evils progressed with rapid strides. The Pontifical appointments placed the mitres of the kingdom on the heads of foreigners, and placed the staff in the hands of shepherds who understood not the bleating of their flocks; of bishops, who, having left their hearts in the cathedrals of their own countries, brought to our sees only the desire of being translated to the churches of their own nations, and only thought of the means of amassing wherewith to purchase patronage, and withholding from their poorer brethren that portion of the church revenues which was their due, retired to their own countries with large sums.

Even those Portuguese subjects who wished to obtain bishoprics, took the road to Avignon; and these journeys, the long residence at the Roman Court, the patronage which they sought there, the pensions which they paid for Papal bulls, were so many sources that drained the riches of the kingdom. In the meantime literature was despised, and virtue was without reward; the effectual persuasion of good example was wanting; religion was declining; ecclesiastical discipline was decreasing; evangelical morals were relaxing; and even the temporal affairs of the Church suffered, by being governed by prelates unacceptable to the King and to the nation.

§ 10. Dom Alfonso IV, successor to Dom Deniz, lifted up his voice, and joining with the King Don Alfonso XI of Castile, complained in strong terms to the Pope John XXII, of so many disorders, in the year 1330, requesting that he would promptly remedy them. The slight attention which he obtained to this complaint we have already noticed. The Court of Rome did not change its system. The evils continued without a hope of a mild remedy. A long catalogue might be given of the bishoprics and ecclesiastical dignities filled by foreigners in these kingdoms during the reign of that Monarch and during the whole of the fourteenth century. The great respect which the Portuguese Kings always professed for the

Holy Apostolic See, very often identified in their minds the Chair of St. Peter with the See of Rome. This respect withheld them from coming to a rupture with the Pope's Ministers. With exemplary patience they preferred the measure of repeating their complaints; they made fresh representations, and abstained from prosecuting this affair with the warmth shown by other Princes, expecting that the Popes would see and root up the evil.

§ 11. Surrounded by the multitude of reservations that inundated the Christian world, they continued to name some bishops, whom the Popes duly confirmed. The King in question petitioned Benedict XI to accept Dom Vasco de Alvelos's resignation of the Bishopric of Guarda, and to appoint thereto Martinho, his physician, and the Pope granted his request.

The King Dom Ferdinand presented to the same bishopric, Don Gonçalvo, who was confirmed in it by Gregory XI; and Boniface IX subsequently confirmed in it Dom Alfonso, who was appointed by the King Dom John I, whose grand-almoner he was.

CHAPTER III

From the King Dom Alfonso V to the glorious and most blessed Reign of the King Dom John V.

§ 1. The King Dom Alfonso V having mounted the throne about the year 1438, Eugenius IV appointed a Bishop of Guarda. The King complained to him of this appointment, and blamed the bishop for having accepted it without his consent; the Pope in his reply, said that the bishop had acted rightly, inasmuch as the consent of the Sovereign was not necessary for the acceptance of bishoprics.

Dom Alfonso V was much displeased with this reply, and despairing of any result from the continued requests and petitions made with the greatest respect by his predecessors for a period of more than a century, he resolved on making use of the means which God had placed in his hands for upholding the dignity and prerogatives of the Crown, and to curb the progress of innovations injurious to the public good of the State and of the churches of his kingdom. Seeing the chapters elections combatted and disapproved by the Popes, he sought to re-establish the ancient right of the appointment of bishops, which his predecessors had decided in favour of the chapters, with the condition of their Royal consent after the election was made; and he decided upon naming for the future all bishops of the churches of his realms, causing it to be notified to the Pontiff, that he should abstain from naming them without his Royal intervention, as he would no longer admit those whom he might appoint without it.

§ 2. This notification was very clear, but it was not sufficient to induce Pius II to pay attention to it, as after this he appointed Dom Alvaro de Chaves to the Bishopric of Guarda, without the consent of the King. The Monarch, however, showed that he spoke in earnest. He prevented the instalment of the nominee, and deprived him of his rights as a natural-born subject, and named to the said bishopric, Dom Gil de Vianna. Pius II felt convinced that the King would continue the suit; and perceiving the justice of the cause, desisted from the appointment which he had made, and confirmed Dom Gil; and wishing that Dom Alvaro should be preferred, he requested the King that if he had occasion to make application for any one it might be in favour of him. To this request the King paid no attention. The successors of Pius II acted in the same manner; from that time they awaited the appointments of the said Monarch, and confirmed his nominees: and it is stated by many, that Innocent VIII issued a bull of indulgence enabling him and all his successors to appoint the bishops of their realm.

§ 3. Our writers establish in this reign the period of the Royal appointment of the bishops of the Lusitanian Church, doubtless because it then became general even in the churches where the elections by chapters had flourished, and quite independent of the Pontifical reservations. It

is certain that the King Dom Alfonso V appointed a great number of bishops for all the Portuguese churches; that after him all succeeding Kings appointed them to all bishoprics, and all the Popes confirmed those named by the Sovereigns, and that no Sovereigns admitted the *motu-proprios* of the Popes. The King Dom Emanuel refused instalment to the Cardinal Junio Jorge in the Archbishopric of Braga, appointed without his consent by Alexander VI to succeed the Cardinal Dom Jorge da Costa; and notwithstanding that he protested to him, and ordered a bull to be issued to him, declaring that that appointment did not prejudice his rights, he could not overcome him.

§ 4. Thus in the reign of Alfonso V the reservations of the bishoprics of these realms to the Holy Apostolic See were happily put an end to, and the second rule of the Chancery, which established them generally in all the Catholic world, was deprived of its force in the dominions of the Portuguese Crown. But the first-fruits did not cease, and against these the people subsequently clamoured, and petitioned for their extinction by Articles of Cortes (*Capitulos de Cortes*) offered to the same Sovereign in 1462, and again to the King Dom John II in 1481. The reservations with respect to the confirmation of bishoprics did not cease, nor could this privilege, which by all canon laws belongs to the metropolitans, be re-established; as the Popes could only be brought to give up the appointments to the Sovereigns; and these had to be submitted to the Popes at Rome for their confirmation, and they retained the power of issuing the Apostolic bulls and of receiving the first-fruits, which should precede the delivery of the bulls, or at least a security for their payment, and of consecrating the confirmed bishops, or giving the commission, as is generally done, for enabling them to be consecrated by any bishops, even if only *in partibus*, reserving only in favour of the metropolitans the oath of obedience; and the King's seeing a remedy for a great proportion of the evils, in the security of the right of appointment, submitted to this discipline, which was not altered by the Council of Trent, and is still in force in these realms.

§ 5. It is true that the bulls were still given to those appointed with the phrase "*ad supplicationem*," and without using therein the phrase "*ad præsentationem*," as if the confirmation of those appointed by the Sovereign was a mere act of favour and not a just right, which true presentations call for; because the Pontifical Chancery seeing their rule so much weakened, wished to preserve this spark in order the more easily to raise the flame which had just been extinguished, when a fitting opportunity should offer. The Kings, however, raised no question about this, considering not only that the confirmations in the form of petitions were more expressive of their filial reverence, and of the great submission and respect due to Christ's Vicar, but being sure that from the result the question would be merely of a name, inasmuch as the confirmation of their appointments was always secure. But on founding subsequently new bishoprics in these realms, as well as out of them in the three quarters of the globe in which the Portuguese planted the faith of the Gospel, they caused to be declared in the bulls of their foundation, that the appointments of their bishops should be made by the Kings' presentation, as being the true patrons, in order to prevent all doubts. Notwithstanding this, for these same churches they subsequently consented to the execution of bulls issued in the form of petition; which shows their indifference on this head, and their firm persuasion that the accidental and voluntary reverence of language could not influence substantially nor weaken their right.

§ 6. This Crown (of Portugal) being held by the Catholic Kings in the year 1580, the form of petition observed by the Pontifical Chancery in the bulls of confirmation of many of the appointments made by our Sovereigns was altered. They began to be issued for the churches of this kingdom with the phrase of presentations by the said Sovereigns, in the same manner as it was customary to issue them to all the other churches of Spain, by virtue of the indulgence granted to the Emperor Charles V.

§ 7. The King Dom John IV was proclaimed, and he was no sooner seated on the throne than he caused his obedience to be presented to the

Holy Apostolic See through his Ambassadors, and appointed bishops to the vacant churches of the kingdom. But (who would have expected it from Christ's Vicar and the successor of St. Peter!) his obedience was not accepted, and his appointments were not confirmed. It appeared to the Pontifical Chancery that the moment was arrived for adding fuel to that spark of the phrase "*ad supplicationem*" and to blow it into a flame. It persuaded Urban VIII, and his successors, Innocent X, Alexander VII, Clement IX and X, that they should fill *motu proprio* the churches of these realms, notwithstanding the appointments of the said Monarch: and accordingly Innocent X filled the churches of Guarda, Miranda, and Viseu.

§ 8. Dom John IV resisted these *motu proprio*s, and would not accept them, insisting that the provisions should be made by virtue of his royal appointment. This contest lasted till such time as the Catholic Sovereigns being undeceived as to the possibility of the subjection of this monarchy to their allegiance, recognized our independence by a solemn Treaty. During that period, the Romans endeavoured to justify their proceedings and to conceal their ambitious purpose, stating that the confirmation of bishops appointed by our Sovereigns, had always been an act of favour, and producing as a proof of it the phrase "*ad supplicationem*" inserted in the bulls. This was intimated by many to our Ministers in the private audiences which they gave to them. It was thus stated in a juridical manifest which they printed in Rome and caused to be circulated at the different Courts.

§ 9. On the celebration of our peace with Spain, they saw that the flame would not kindle, and prepared themselves to issue to those appointed, bulls in the form of petition. But the King Dom Peter II, then Regent, who had been made sensible of the unfair use made of the deferential feeling which that phrase implied, insisted that the bulls should be issued with the phrase of presentation, according to the usage and custom which was in force when he accepted the Crown, and which he was bound to preserve intact, and transmit in the same manner to his successors.

The debate was warmly kept up, and continued to hold the issuing of the bulls in suspense. With reference to that question, several consistorial congregations were held, in which it was determined that the bulls might be issued under the title of petition, with the exception of those of the two Bishoprics of Leiria and Elvas, which could not fail in being given in the form of presentation, the patronage of the Crown in those two bishoprics being undoubted.

§ 10. The Ministers of the Prince Regent did not conform to this, and they were imitated on this head by those of the three succeeding Kings, which caused from thenceforth a great diversity in the forms of bulls for the bishops of these realms, which were sometimes issued with the phrase of "*petition*," and at others with the acknowledgment of *presentation*, according to the diligence and dexterity of the commissioners employed in obtaining them, and the humour of the officers of the Pontifical Chancery, who managed these affairs with a view to their own interests.

However, the King Dom John V did not suffer this point to continue dependent on the will and to serve the purposes of those officers. He urged the great Pope Benedict XIV to do justice to this Crown, by causing all bulls to be issued with the constant, perpetual, and unalterable recognition of the Royal patronage. In order to satisfy this appeal, the said Pontiff convoked a private assembly of ten Cardinals, and this affair being examined in his presence, he promulgated a decree on the 12th December, 1740, in which it was determined that the appointments to churches of these realms should all be given with the clause of presentation by their Sovereigns, and that this should be observed evermore without alteration.²

This is the last state of the right, in these realms, in the naming of their bishops. There is no instance of an alteration in the observance of that decree. From this right is clearly seen the indisputable force which the appointments made by Their Most Faithful Majesties to the churches of their kingdom and dominions now possess.

² Annexed is a copy, printed in Rome, of the Decree of Benedict XIV, which regulated the form for issuing Confirmation Bulls for the Churches of Portugal.

Decree of Benedict XIV, of December 12, 1740.

FIDEM facio per præsentēs Ego Infrascriptus Sacri Consistorii, et R. P. D. Joannis Jacobi Millo Auditoris Sanctissimi Domini Nostri Benedicti Papa XIV, in rebus Consistorialibus Substitutus, et Protonotarius Apostolicus, qualiter in Tomo primo Consistoriorum ejusdem Sanctissimi Domini Nostri inter Acta Consistorialia ibidem registrata, et signanter pagina 151, ejusdem tomi adest regestum Infrascripti Decreti, quod ex ipso regesto de verbo ad verbum fideliter transcripsi videlicet.

In Congregatione particulari habitâ infrascriptâ die coram Sanctissimo super provisionibus Ecclesiarum Cathedralium Regnorum Portugalliæ, cui Congregationi interfuerunt Emi. DD. Cardinales Sancti Clementis, Picus, Petra, Firrao, De Gentilibus, Passeri, Aldrovandus, Passioncus, Valenti, et Corsinus, Sanctitas Sua decrevit: Provisiones omnium dictarum Ecclesiarum in proximis, et futuris Consistoriis proponendarum expediendas esse cum clausula—*Ad Præsentationem illius Regis*, et ita imposterum servari mandavit.

Datum Romæ 12 Decembris, 1740.

Loco X Sigilli.

Joannes Jacobus Millo,

Auditor, et dictæ Congregationis Secretarius.

In quorum fidem præsentēs proprio caracthere subscripsi, meoque sigillo signavi pro veritate requisitus.

Romæ, die 20 Februarii, 1742.

Ita est. *Petrus Sommer,*

Substitutus Consistorialis, et Protonotarius Apostolicus.

In Nomine Domini Amen. Præsentī publico recognitionis manus, et Sigilli Instrumento cunctis ubique pateat evidenter, et notum sit, quod anno ab ejusdem Domini Nostri Jesu Christi salutiferâ Nativitate millesimo septingentesimo quadragésimo secundo Indictione v. die vero vigesimâ tertiâ mensis Februarii Pontificatus autem Sanctissimi in eodem Christo Patris, et Domini Nostri Domini Benedicti Divinâ Providentiâ Papæ XIV, anno ejus secundo. In mei Notarii publici, et Testium infrascriptorum præsentī præsens, et personaliter existens retrospectus Illustrissimus Dominus Petrus Sommer filius quondam Jacobi Romanus Substitutus Consistorialis, et Protonotarius Apostolicus mihi Notario infrascripto cognitus, sponte ac aliâs omni meliori modo, et formâ medio juramento tactis Scripturis recognovit, ac recognoscit retrospectam manum suam, literas, caractherem. subscriptionem, ac sigillum in formâ in calce retrospectæ fidei apposita, omniaque, et singula in eâ contenta, expressa, et narrata vera fuisse, et esse simili juramento affirmavit, approbavit, et emologavit, ac per præsentēs affirmat, approbat, et emologat non solum isto, sed et omni meliori modo, super quibus Ego Notarius publicus infrascriptus præsens Instrumentum confeci, et subscripsi.

Actum Romæ in Officio mei Regionis Trivii præsentibus ibidem audientibus, et benè intelligentibus Dominis Marco Antonio Savino filio quondam Josephi, et Sancte Bellucci filio Domini Francisci Romanis, testibus ad præmissa omnia vocatis, habitis, atque rogatis.

Ego Dominicus Fabianus Grassus Romanus Civis, publicus Dei gratiâ, et Apostolicâ autoritate Causarum Curie Capitolinæ Notarius de præmissis rogatus præsen recognitionis manus, et sigilli Instrumentum subscripsi, publicavi, meoque solito signo signavi requisitus.

Loco X Signi.

Nos ad præsens Cameræ Almæ Urbis, Inclitique Populi Romani Conservatores: Universis, et singulis has præsentēs literas inspecturis Fidem facimus, atque testamur suprascriptum Dominum Dominicum Fabianum Grassi de præmissis rogatum esse nostræ Curie Capitoli Notarium publicum, authenticum, legalem, fide dignum, ac talem qualem se ut supra fecit, et facit, ejusque scripturis publicis, et similibus in judicio, et extra semper adhibitam fuisse, et de præsentī quoque plenam, et indubiam adhiberi fidem, in quorum testimonium præsentēs dari jussimus.

Datum Romæ ex Ædibus Capitolinis nostræ solitæ residentie die, et anno prædictis.

Loco X Sigilli.

Pro Domino Secretario Nobilis Collegii Dominorum Notariorum Causarum Curie Capitolinæ.

Alexander Soldinus, de mandato.

(Translation.)

I, THE Undersigned, Apostolical Prothonotary and Deputy of the Holy Consistory, and of R. P. D. John James Millo, Auditor of our most sacred master Pope Benedict XIV, in Consistorial Affairs, do testify by these presents, that in the first volume of the Consistories of His Holiness before named, among the Consistorial Acts there registered, at page 151 of the same volume, there is a register of the under-written Decree, from which register I have faithfully transcribed it word for word, viz.:

At a special Congregation held on the undermentioned day before His Holiness,

respecting the appointments to the Cathedral Churches of the Kingdoms of Portugal, at which Congregation there were present their Eminences DD. the Cardinals Sancti Clementis, Picus, Petra, Firrao, De Gentilibus, Passeri, Aldrovandus, Passioneus, Valenti, and Corsinus, His Holiness decreed:—The appointments to all the said churches which may be proposed in the present or future Consistories, shall be made out with the clause *Ad Presentationem illius Regis*, and commanded that this should be observed in future.

Dated at Rome, December 12, 1740.

(L.S.) *John James Millo,*

Auditor, and Secretary of the said Congregation.

In faith of which I have signed these presents with my own handwriting, and have signed them with my seal, as required for verification.

Rome, February 20, 1742.

So it is. *Peter Sommier,*

Deputy of the Consistory, and Apostolical Prothonotary.

In the name of God, Amen. By the present public signed and sealed Instrument, be it everywhere manifest and known to all, that in the year seventeen hundred and forty-two, from the birth of Our Blessed Lord Jesus Christ, on the fifth Indiction, on the twenty-third day of February, and in the second year of the Pontificate of our most holy Father in Christ, by divine Providence, Pope Benedict XIV; the endorser, Illo. Peter Sommier, son of the late James, native of Rome, Deputy of the Consistorial Court, and Apostolical Prothonotary, known to me, the undersigned notary, being personally present, before me, a Notary Public, and the undersigned witnesses, of his own accord, in proper mode and form, by oath upon the Scriptures, did and doth acknowledge his own hand, the letters, characters, signature, and seal placed at the foot of the endorsement in due form; and did affirm, approve, and admit, by a similar oath, and doth affirm, approve, and admit by these presents, not only in this but in every proper mode, all and everything therein contained, expressed, and narrated, to have been and to be true; upon which I, the undersigned Public Notary, have made and signed this instrument.

Dated at Rome, in my office in Riene Trevi, Marco Antonio Savino, son of the late Joseph, and Sancte Bellucci, son of Francis, natives of Rome, witnesses called, had, and required in all the premises. being there present, hearing and well understanding.

I Domenico Fabiano Grassi, citizen of Rome, by the grace of God, and by Apostolical authority Notary of causes in the Capitoline Court, being required in the premises, have signed, published, and sealed, with my usual seal, the present instrument.

(L.S.)

We, at present Conservators of the Chamber of the City and of the renowned Roman people: To all and every one who may see these present writings, we do give assurance and testify that the above-signed Domenico Fabiano Grassi called upon in these premises, is the public authorized legal and trustworthy notary of our Capitoline Court, and that he is what he hath and doth declare himself to be; and that to his public writings and the like, both in judicial matters and otherwise, full and perfect faith has been given, and is now also given. In testimony whereof we have ordered these presents to be made.

Dated at Rome, at our usual residence in the Capitol, on the day and year aforesaid.

(L.S.)

For the Secretary of the Noble College of Notaries of the Capitoline Court,

Alessandro Soldino, by command.

Inclosure 2 in No. 16.

Memorandum on Works respecting the Right of Patronage in Portugal.

(Translation.)

THE right of patronage which the Kings of Portugal possess in all the Cathedrals of their Kingdoms and Dominions has long been placed beyond doubt; nor has the See of Rome dared to question it during the periods of dissension which have occurred between the two Courts from the time of the King Dom John V. The dispute in the East is derived from other principles and pretexts, and these same involve the recognition of that right.

Many of our writers have amply treated this subject: in their writings the curious will meet with the notice of the arguments which are generally adduced in defence of the Royal patronage of bishoprics, as also of the occurrences and facts which at different periods have taken place with reference to the exercise of it.

We will here mention, as a memorandum, some works which may be consulted on this subject with more advantage and facility.

1st. "Analytic and Apologetic Treatise on the Provisions of the Bishoprics of the Crown of Portugal, by Manoel Rodriguez Leitão."—Lisbon, 1715. One vol. folio.

This work (which is not rare) was written to support the right and justice of the proceedings of the Kings Dom John IV and Dom Alfonso VI in not accepting bishops who were not presented by them, and in reply to what, on the part of Castile, had been written against the appointments made by the Portuguese Crown after the Restoration of 1640. The work partakes of the bad taste of the time and of the opinions which were in vogue in the country respecting the true limits of the Church and State.

There is perhaps a prolixity and unnecessary accumulation of argument; but it is not to be denied that the author has fully treated the subject, and enriched his work with much juridical and historical erudition.

2nd. "Praxis de Patronatio Regio et Sæculari, by Bento Cardoso Osorio." Lisbon, 1735. One vol. folio.

In this Treatise—in Resolution 49, page 201 and following, and in Resolution 51, page 223 and following—the question of the patronage of cathedrals is presented, and all the arguments in its favour are set forth. Reference is made to many other authors and doctors; and this work appears the more worthy of consultation, as the author, being a judge of the tribunal of the Nunciature, was generally favourable to the interests of the Roman See.

3rd. "Theological, Canonical, and Historical Demonstration, &c." By the celebrated Divine and Canonist, Padre Antonio Pereira de Figueredo. Lisbon, 1769. One vol. quarto.

In this work, written during the rupture with the Court of Rome in the time of the King Dom Joseph I, is attempted to be shown, that in the state of things the metropolitans could confirm and consecrate the bishops appointed by the King; and that the suffragan bishops of the province could also confirm and consecrate their respective metropolitans. Notwithstanding that this is the principal argument of the work, it contains many enlightened doctrines which bear upon the subject of the right of Royal patronage and of the force of Royal appointments.

Perhaps the most remarkable period of controversy upon this subject was that of the reigns of the three Kings, Dom John IV, Dom Alfonso VI, and his successor.

The influence of the Catholic Kings caused the Pontifical Court to refuse to admit the Ministers of the said Monarchs, and to give attention to the frequent appeals and representations, which, on the part of Portugal, were addressed to the Holy See, at different times and through various channels. This caused a suspension of relations or rupture between the two Courts, which lasted for twenty-eight years, and the neglect of the churches reached such a height, that only one consecrated bishop (of Elvas), aged 94 years, was to be found in these kingdoms. During this interval many consultations were held, and various remedies were proposed for preventing the pressing evils of the Churches; and even the opinion of the Theological Faculty of Paris was taken upon this important subject.

The influence of the Ministers of the Holy Office (Inquisition) prevented the carrying out of any one of the proposed measures more becoming to the Crown, and had the effect of detaining the Resolution till such time as through the recognition of the independence of this kingdom and the conclusion of the peace with Spain, the interruption ceased, and a good understanding was re-established with the Pontifical Court.

What was practised and projected during this memorable period will be found fully detailed in the book entitled "Bleatings of the Churches of Portugal to the Chief Shepherd Supreme Roman Pontiff. By the three estates of the kingdom." Printed in Paris in the year 1653. 1 vol. 12°. The name of the author is not mentioned in it, nor is there any signature at the end of the exposition; but it is attributed to Pantaleão Rodriguez

Pacheco, a judge of the tribunal of the Holy Office at Lisbon (Inquisition), which is plainly shown by the spirit which prevails in the work.

The history of these occurrences is also clearly and extensively treated in the work entitled "History of Portugal Restored," by Dom Luiz de Menezes, Count of Ericeira; Lisbon, 1679, 2 vols. fol., and of which there are several subsequent editions. The first volume of this history is well worthy of being read for information on this subject.

Some information may also be derived from various documents transcribed by Manoel Themudo da Fonseca, in his book entitled "Decisiones et Quæstiones Senatûs Archiepisc. Metrop. Ulissipon Regni Portugalliæ."

Besides these and other native writers who wrote with more or less detail the occurrences of that period, notice of them is to be met with in many historical works of other countries, especially of France and Spain.

Inclosure 3 in No. 16.

Instructions to Senhor Pedro de Mello Breyner.

Palacio de Queluz, em 8 de Fevereiro de 1822.

FOI presente a Sua Magestade o officio que Vossenhoria dirigio em 6 de Dezembro do anno passado pela Secretaria de Estado dos Negocios Estrangeiros, sobre o processo do Bispo Eleito de Coimbra, o Doutor Frei Francisco de San Luiz, e expedição das bullas de confirmação; el Rey vio com a maior estranheza a illegal resposta que a Vossenhoria deu o Cardeal Secretario de Estado, e julga impossivel que façam maior pezo na timorata consciencia de Sua Santidade cartas particulares e secretas, do que um processo legitimamente feto pelo seu proprio delegado, segundo todas as formalidades de direito, e na conformidade do que prescrive o sagrado Concilio Tridentino na sessão 22 cap. 2, de Reformatione "*Quarum rerum institutio*," &c.

Sua Santidade no caso presente não tem direito de julgar se não *secundum allegata et probata*; se pois do processo legalmente feito nada consta contra a reconhecida sabedoria, e experimentadas virtudes do bispo eleito; se nellem concorrem todas as condições e requisitos exigidos pelo mesmo Concilio Tridentino; se alem de tudo esto tem na nomeação que Sua Magestade fez da sua pessoa para tão alta dignidade um testemunho da maior excepção, como e possivel que a timorata consciencia do Santo Padre trepide em fazer a confirmação, e mandar expedir as bullas, e não trepide de fazer soar do Vaticano uma maxima tão opposta aos principios da justiça e da moral, qual é dar mais pezo a cartas particulares, do que a um processo legalmente feito? Que diria Santo Thomas, que diriam todas os Santos Padres, se soasse aos seus ouvidos uma tão perigosa doutrina? Se esta doutrina por desgraça se propagasse, bastaria para arriscar o decoro de Sua Magestade e todos os seus direitos, bastaria para arriscar o bom nome honra e vida e todos os haveres do bispo eleito; bastaria para arruinar toda a ordem social: Sua Magestade pois não levou a bem que Vossenhoria não protestasse desde logo contra uma similhante maxima, e contra uma similhante doutrina, e lhe ordena que o faça immediatamente pelo modo mais solemne e categorico, no caso que se não realisem as esperanças que Vossenhoria ainda conserva de ver entrar o processo na unica marcha que o direito e justiça lhe marcavam, e que de só intenções sinistras o podem ter desviado; repetitando Sua Magestade Fidelissima como um dever sagrado o respeito que tributa a Santa Sé Apostolica e ao Santissimo Padre, nao reputa menos sagrado o dever de sustentar os direitos de sua Corôa, direitos que seus augustos maiores por tantas vezes a tão gloriosamente souberam sustentar; se pois Sua Santidade persistir em demorar a confirmação do Bispo eleito coadjutor, e futuro successor do Bispo de Coimbra, faça-lhe Vossenhoria saber de uma maneira authentica, que Sua Magestade Fidelissima está na firme resolução

de usar do direito estabelecido no Canon 4 do Concilio de Nicea, “Episcopum oportet maxime quidem ab omnibus qui sunt in provincia constitui,” e no Canon 12 do Concilio de Laodicea, “Episcopi iudicio Metropolitanorum;” direito que é consagrado por Innocencio I, Diss. 64, Can. 5; por San Leão na carta a Anastacio de Thessalonica, pelo Setimo Concilio, no Canon 2; e finalmente suposto e confirmado como direito commum, nas decretas de Gregorio IX. Sua Santidade não ignora que os bispos foram assim confirmados e sagrados pelo espaço de trese seculos; e como a Santa Igreja de Jesus Christo não mudou, nem podia mudar de indole, os bispos confirmados agora como eram na quelles felices tempos hão de ser tão bispos, e ter tanta jurisdição e authoridade, como tinham naquelles trese seculos. Para mais prompta e legal execução desta resolução ate Sua Magestade presentemente tem vago o Bispado de Tanger, que é do seu real padroado, como Vossenhoria mesmo ha pouco observou.

Faça Vossenhoria finalmente saber a Sua Santidade, que o abuso de authoridade da muitos vezes motivos a se tomarem providencias de utilidade, e necessidade summa, e que se Sua Magestade se resolver a fazer confirmar e sagrar assim um bispo nos seus reino, seguira a mesma marcha e a mesma doutrina da Igreja, a respeito de todos os bispados que houver de prover.

O acontecimento com o Doutor Santa Clara, nomeado Arcebispo d’Evora, e agora com o Doutor São Luiz, faz de absoluta necessidade, que se fique entendendo de uma vez para sempre, que Sua Magestade respeita religiosamente, e como filho o mais fiel os direitos da Igreja, mas que não consentirá jamais, que alguém invada os seus: que em Roma se não pode saber melhor que em Portugal, os homens que mais convem para prelados destes reinos; finalmente, que Sua Magestade emprega todos os meios possiveis no acerto da sua escolha, e que nunca soffrerá que esta seja emendada, se não pelas leis canonicas. Em vista destes principios, e segundo as circumstancias o exigirem quer Sua Magestade que Vossenhoria trate este negocio e os outros que se offerecerem de igual natureza, com a firmeza e dignidade que são devidas á sua Corôa e aos seus direitos.

Deos guarde, &c.

(Assignado)

JOSE DA SILVA CARVALHO.

(Translation.)

Palace of Queluz, February 8, 1822.

HIS Majesty was made acquainted with the despatch which you addressed on the 6th December of last year to the Department of Foreign Affairs, respecting the testimonials of the Bishop-elect of Coimbra, Dr. Frei Francisco de San Luiz, and the issue of the bull of confirmation. The King has seen with the greatest surprise the illegal answer returned to you by the Cardinal Secretary of State, and considers it impossible that private and secret letters should make a greater impression on His Holiness’ scrupulous conscience than the testimonials regularly prepared by his own delegate in accordance with all the forms of law, and in conformity with the provisions of the holy Council of Trent, in its 22nd session, chap. II, “on the Reformation,” *Quarum rerum institutio*.

His Holiness, in the present instance, has no right to judge, unless *secundum allegata et probata*; if, on the testimonials legally made, nothing appears against the acknowledged wisdom and tried virtues of the bishop-elect; if all the conditions and qualifications required be the same Council of Trent are found in him; if, moreover, His Holiness possesses an unexceptionable testimony in the choice made of the bishop’s person, by the King, for so high an honour, how is it possible that the Holy Father’s scrupulous conscience can hesitate to grant the confirmation and direct the bull to be issued, while he does not hesitate to proclaim from the Vatican a maxim so opposed to every principle of justice and morality, such as that of attaching more weight to private letters than to testimonials regularly drawn up? What would St. Thomas, and what would all

the Holy Fathers say, if such dangerous doctrines came to their ears? If this doctrine were unfortunately to spread, it would put in jeopardy His Majesty's dignity and rights; it would put in jeopardy the fair name, the honour, the life, and all the possessions of the bishop-elect; and it would overturn all social order.

His Majesty also does not approve of your not having protested at once against such a principle and such a doctrine, and orders you to do so immediately in the most solemn and categorical manner; in case the hopes you still entertain be not realized of seeing the testimonials follow the only course which right and justice point out, and from which sinister motives could alone have diverted them. His Most Faithful Majesty, while he holds the respect he owes to the Holy Apostolic See and to the Holy Father, as a sacred duty, holds no less sacred to uphold the rights of his Crown—rights which his august ancestors so often and so gloriously upheld. If His Holiness should still persist in delaying the confirmation of the bishop-elect as coadjutor and future successor to the Bishop of Coimbra, you will acquaint him in the most formal manner, that His Most Faithful Majesty is firmly resolved to make use of the right established by the 4th canon of the Council of Nice: "Episcopum oportet maxime quidem ab omnibus qui sunt in provincia constitui," and by the 12th canon of the Laodicean Council, "Episcopi judicis metropolitanorum;"—a right which was confirmed by Innocent I, Dis. 64, Can. 5; by St. Leo in his letter to Anastasius of Cephalaria; by the 7th Council in the 2nd canon; and finally understood and confirmed as a general right, in the Decretals of Gregory the Ninth. His Holiness is aware that bishops have been thus confirmed and consecrated for thirteen centuries; and, as the holy church of Jesus Christ neither did nor could change character, the bishops confirmed and consecrated now as they were in those happy times, are as much bishops, and have the same jurisdiction and authority as they possessed during those thirteen centuries. For the more prompt and legal execution of this resolution, His Majesty even now keeps vacant the Bishopric of Tangiers, which is in the royal gift, as you yourself have lately observed.

Finally, you will inform His Holiness, that the abuse of authority frequently occasions the adoption of measures of expediency and emergency, and that should His Majesty decide upon the confirmation and consecration of one bishop in this manner in his dominions, he will follow the same course and the same doctrine of the Church with regard to all the bishoprics which he may have to bestow. The occurrence which took place with Dr. Santa Clara, named Archbishop of Evora, and now again with Dr. San Luiz, makes it absolutely necessary that it be understood once for all, that His Majesty respects religiously, and as her most faithful child, the rights of the Church, but that he will never permit any one to encroach on his own. That it cannot be better known in Rome than in Portugal, what men are best qualified for prelates in these realms. Finally, that His Majesty uses every possible means to make good appointments, and that he will not allow them to be amended, save by the canon laws.

According to these principles, and as circumstances may require, His Majesty desires that you will treat this matter, and others connected with it, with the firmness and dignity due to his Crown and his rights.

(Signed) JOSE DA SILVA CARVALHO.

Inclosure 4 in No. 16.

Instructions to Senhor Pedro de Mello Breyner.

Palacio de Queluz, em 13 de Março de 1822.

LIVEI a presença de Sua Magestade o officio de Vossenhoria de 26 de Janeiro de deste anno, em que Vossenhoria participa a noticia confidencial que lhe dirigio o Cardeal Secretario d'Estado por obsequiar a Sua Magestade, e facilitar a justificação do Bispo eleito de Coimbra. Sua Magestade porem, longe de se obrijar desta confidencia a toma como um

ataque feito a sua alta dignidade, e como a maior brixia que pode fazer-se ao direito firmado no Concilio de Trento e nas Bullas de Gregorio XIV, Urbano VIII, e Benedicto XIV, que se allegam para cobrir com um pretexto especioso, uma infracção dos direitos de Sua Magestade, e dos deveres dos Santos Padres com a Igreja Portugueza. Nem o Concilio, nem aquelles respeitaveis Pontifices sancionaram, ou podiam sancionar em parte alguma, que o processo publico, juridico e legal não tivesse effeito quando estivesse em opposição com uma opposição, ou carta particular, porque neste caso sempre ficariam frustradas as nomeações dos Soberanos, e até as eleições, aonde ainda tum lugar, pois quanto mais se abalissem em virtudes, e merecimentos literarios os candidatos, mais emulos teriam; bastando um que com simples artificio de uma carta pudesse a authoridade do Soberano, macular a reputação e creditos mais bem fundados, e privar a Igreja dos serviços dos mais dignos e benemeritos cidadãos. Este absurdo pois não entra nem na letra nem no espirito do Concilio de Trento; e come na Corte de Roma se cita Van Espen, "*Jur. Eccles. Univers.*," manda Sua Magestade que Vossenhoria faça uso do cap. 3, na primeira parte, titulo 14, e com muita particularidade do § 12 aonde lera esta terminante passagem, "*Quando, quidem vero*" (diz o Procurador Regio Francez) "*dicta informationes unice fiunt, ut securius, ac maturius in nominationibus, quæ ad Regem pertinent, procedatur; ne quæ Romani mittantur, nisi ut Pontifici astendatur nominatum esse instructum qualitibus a Sacris Canonibus, et in concordato requisitis, et per consequens nominatum recusari non posse.*" Reconhece logo Van Espen com todos os autores de Direito Canonico, que uma vez feito o processo em forma legal, e pela legitima authoridade, nem pode proceder-se a outro, nem invalidar-se per qualquer motivo o primeiro, nem o Santo Padre pode deixar de confirmar o nomeado, uma vez que tem todas as qualidades que os canones requerem. A Bulla de Benedicto XIV, de 17 d'Outubro de 1740, que principia—"Ad Apostolica servitutis onus,"—na primeira parte só trata das nomeações que os Papas tem de fazer nos seus Estados, e para esses podem legislar como quizerem: mas attenda Vossenhoria e faça notar que no § 7, aonde trata de exhortações e admoestações aos Soberanos ou aquelles que tem direito de nomeação protesta Benedicto XIV que nada inora, "*Nihil in eis pro presenti temporum ratione innovando.*"

Como se pode logo adducir esta bulla em apeio de uma pertença nova desconhecida em todos os tempos, injusta, attentatoria contra as leis canonicas e contra os direitos de Sua Magestade? Sua Magestade pois, como defensor das canones da Igreja, e porque deve manter intactos os direitos da sua Corôa e dos seus subditos, manda espressamente declarar a Vossenhoria que não consente que o Bispo eleito de Coimbra ajunte uma so attestação nem dos seus antigos prelados, nem de algum bispo para desvanecer essa illegal imputação de pedreiro-livre. Com tanto conhecimento de cauza podem esses prelados affirmar que elle não é, como o autor da tal carta pode affirmar que o é. O Tribunal do Santo Officio, o Intendente Geral de Policia, o Juiz da Inconfidencia, com centos de espioes e de beleguins nunca poderam designar com certeza os membros dessa sociedade secreta; e então ha de poder fazel-o um prelado no centro de um mosteiro, ou um bispo em um canto de uma provincia? O que se pretende pois com isto? Que sejam tam temerarios como o autor da carta. Por ventura uma attestação, ou um cento d'ellas de todos os prelados do reino pode valer tanto como o testemunho que Sua Magestade dá ao eleito, nomeado-o para Bispo de Coimbra. Sua Magestade reputa o seu testemunho como o testemunho de maior excepção, e não pode suppor de sorte alguma que em Roma se dé mais pezo a um attestado de um bispo ou de um frade dos seus reinos, do que ao seu diploma de nomeação. Se pois o Santo Padre por escrupulos de uma consciencia timorata receia que o nomeado este ja ligado com alguma censura (que e o mais que podia ter, ainda sendo verdadeira a imputação) que o absolva condicionalmente, e que o confirme como deve, pois é este o procedimento que a sã theologia, e os deveres, como Vigario de Jesus Christo, lhe mandam. Sua Magestade manda recommendar finalmente a Vossenhoria, que faça todas as possiveis diligencias para que Sua Santidade conheça o absurdo com que se pretende fazer uma má applicação das santas disposições do Concilio Tridentino e

das paternaes providencias de Clemente XIV, Urbano VIII, e sobre tudo da bulla da creação da congregação particular sobre os que devem ser promovidos aos arcebispos e bispados da nomeação de Sua Santidade; visto que a parte exhortatoria deste bulla nem innovacousa alguma, nem determina novas justificações. Se porem Vossenhoria vir que o espirito de antecipação, ou antes o da discordia se faz sentir no Vaticano, uze das instrucções que Sua Magestade lhe mandou remetter com a data de 8 de Fevereiro do corrente anno, protestando contra a innovação e falsa doutrina com que se attende mais a uma carta particular, do que a um processo legal, e faça uma nota em que declare a Sua Santidade, que Sua Magestade Fidelissima renova os protestos de adhesão e fidelidade á Santa Sé Apostolica, mas que utilizando-se do direito commun, e das doutrinas dos melhores seculos do Christianismo, não si passa a confirmar os bispos dos seus Estados pelos metropolitanos, mas tambem fará que uns e outros concedam as dispensas e graças espirituas que podem como successores dos Apostolos, e depositarios da precisa authoridade para proverem as precisões das suas Igrejas e rebanho: suspendendo o seu regio beneplacito a todas e quaesquer bullas passadas em Roma, ou aqui pelo Delegado Apostolico. E o quanto Sua Magestade manda communicar a Vossenhoria.

Deos Guarda, &c.

(Assignado)

JOSE DA SILVA CARVALHO.

(Translation.)

Palace of Queluz, March 13, 1822.

I HAVE laid before His Majesty your despatch of the 26th January of the present year, in which you acquaint me with the confidential communication made to you by the Cardinal Secretary of State, as a mark of attention to the King, and for the purpose of facilitating the justification of the Bishop-elect of Coimbra. But His Majesty, far from feeling obliged by this confidential communication, looks upon it as an attack upon his high dignity, and as the greatest possible breach upon the rights confirmed by the Council of Trent and by the bulls of Gregory XIV, Urban VIII, and Benedict XIV, which are quoted for the purpose of covering with a specious pretext, the infringement of His Majesty's rights and of the duties of the holy fathers towards the Portuguese Church. Neither the Council nor those venerable Pontiffs did or could in any degree give their sanction to this; that public testimonials, regular in form and law, should be without effect when in contradistinction with secret informations or private letter; for were it so, appointments by the Sovereign and even elections, where such still exist, might always be defeated; for the more the candidate excelled in virtues and literary merits, the more rivals would they have; one being enough, by the simple artifice of a letter, to make void the Sovereign's authority, to stain the best-earned name and reputation, and to deprive the Church of the services of the most worthy and deserving men.

Such unreasonableness then is not to be found either in the letter or the spirit of the Council of Trent; and as Van Espen's "Jur. Eccl. Univ." is quoted at Rome, His Majesty desires that you will make use of the 3rd chap., in the 1st part, titulo 14, and more especially of the 12th chap., where you will find this conclusive passage: "Quando, quidem vero (according to the Attorney-General of France) dicta informationes unice fiunt ut securius in nominationibus, quæ ad Regem pertinent, procedatur; ne quæ Romani et maturius mittantur, nisi ut Pontifici ostendatur nominatum esse instructum qualitatibus sacris canonibus et in concordato requisitis, et per consequens nominatum recusari non posse." Van Espen, therefore, admits, as do all writers on canon law, that testimonials once prepared in legal form and by legitimate authority, the process cannot be repeated, nor can the former be invalidated on any account, nor can the Holy Father decline to confirm the person appointed, if he possess all the qualifications required by the canons.

The bull of Benedict XIV, of the 17th October, 1740, beginning "Ad

Apostolicæ servitutis onus," in the first part, applies only to the nominations which the Popes may make in their dominions, and for these they may legislate as they please. But you will remark and direct attention to this, that where it applies to exhortations and admonitions to Sovereigns, or to those who have the right of appointment, Benedict XIV declares that he makes no innovation, "*Nihil in eis pro presenti temporum ratione innovando*." How then can this bull be produced in support of a new pretension, unknown at any period, unjust, offending against the canon laws, and inconsistent with His Majesty's rights.

His Majesty, then, as the defender of the canons of the Church, and as under obligation to maintain inviolate the rights of his Crown and of his subjects, directs me to declare to you expressly, that he will not consent that the Bishop-elect of Coimbra should add a single attestation, either from his former diocesans or from any bishop, for the purpose of doing away with this illegal imputation of freemasonry. With an equal knowledge of the facts of the case, these prelates might affirm that he is not, as the author of that letter might affirm that he is, a freemason.

The Tribunal of the Inquisition, the Superintendent of Police, the "*Juiz da Inconfidencia*," with hundreds of spies and police, have never been able to point out with any certainty the members of this secret society; can, therefore, a prelate do so from the interior of a monastery, or a bishop from the corner of a province? What is the object of this? That they should show themselves as rash as the author of this letter.

Can one attestation, or a hundred attestations, from all the prelates of the kingdom be equal to the testimony which the King bears to the Bishop elect, by naming him to the See of Coimbra? His Majesty regards his own as the most unexceptionable testimony, and can in no way imagine that greater weight is attached at Rome to the testimony of a bishop or monk of his dominions than to his own patent of appointment. If then the Holy Father, through scruples of a tender conscience, is apprehensive that the nominee may be liable to some ecclesiastical censure (which is the most that could be the case were the imputation true), let him absolve him conditionally, and let him confirm him as he is bound to do, since this is the course which sound theology and his obligations as Vicar of Jesus Christ, enjoin upon him to follow.

His Majesty desires me, finally, to recommend you to take every opportunity of inducing His Holiness to admit the unreasonableness of making such a misapplication of the holy regulations of the Council of Trent and of the paternal enactments of Clement XIV, of Urban VIII, and above all of the "*Bulla da Creação da Congregação particular*," to those who are to be promoted to archbishoprics and bishoprics of the nomination of His Holiness; inasmuch as the hortatory part of this bull neither makes any innovation nor provides for additional justifications.

But if you see that the spirit of prepossession, or rather of discord, is perceptible in the Vatican, you will make use of the instructions which His Majesty directed to be sent to you on the 8th February of this year, protesting against the innovation and the false doctrine of paying more attention to a private letter than to legal testimonials; and you will prepare a note, stating to His Holiness, that His Most Faithful Majesty renews his declaration of adhesion and faithfulness to the Holy Apostolic See, but that availing himself of the rights of general law, and of the doctrines of the best ages of Christianity, he not only proceeds to the confirmation of the bishops of his kingdom by the metropolitans, but determines that both the one and the others shall grant the dispensations and the spiritual favours which they may grant as the successors of the Apostles and the depositaries of the authority necessary for supplying the wants of their churches and flock; depriving of his royal approbation all and any bulls issued in Rome, or here, by the Apostolic Delegate. Such are His Majesty's orders to you.

(Signed)

JOSE DA SILVA CARVALHO.

The first of these is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent. The second is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving. The third is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment.

The fourth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions. The fifth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner. The sixth is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent.

The seventh is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving. The eighth is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment. The ninth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions.

The tenth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner. The eleventh is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent. The twelfth is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving.

The thirteenth is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment. The fourteenth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions. The fifteenth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner.

The sixteenth is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent. The seventeenth is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving. The eighteenth is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment.

The nineteenth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions. The twentieth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner. The twenty-first is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent.

The twenty-second is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving. The twenty-third is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment. The twenty-fourth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions.

The twenty-fifth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner. The twenty-sixth is the fact that the system is not a simple one, but a complex one, in which the various parts are interrelated and interdependent. The twenty-seventh is the fact that the system is not a static one, but a dynamic one, in which the various parts are constantly changing and evolving.

The twenty-eighth is the fact that the system is not a closed one, but an open one, in which the various parts are constantly interacting with the environment. The twenty-ninth is the fact that the system is not a homogeneous one, but a heterogeneous one, in which the various parts are of different kinds and have different functions. The thirtieth is the fact that the system is not a uniform one, but a non-uniform one, in which the various parts are distributed in a non-uniform manner.

PRUSSIA.

No. 17.

The Earl of Westmorland to Viscount Palmerston.—(Received December 21.)

My Lord,

Berlin, December 18, 1850.

I HAVE to acknowledge the receipt of your Lordship's despatch by which I am directed to transmit to you a copy of any Concordat between the Prussian Government and the Court of Rome, for the governance of the Roman Catholic Church in this country, together with further information relating to the same subject.

I have placed this despatch in the hands of M. le Coq, who will obtain the answers required by your Lordship, from the Ministry for Ecclesiastical Affairs of the Kingdom.

I believe I can state, that until the proclamation of the new Prussian Constitution on the 31st of January of the present year, there existed in Prussia as in almost every other country, whether Catholic or Protestant, a prohibition to publish any bull, sentence, brief, or provision, from Rome, without it should previously have received the *regium exequatur*.

This is the provision which exists in most of the Italian States, and which was particularly acted up to in the Duchies of Parma and Placentia in the year 1768, in the dispute between Clement XIII and Ferdinand, Duke of Parma, and which was supported by the Governments of France, Spain, and Naples, all of which suppressed the publication of the Pope's letter within their States, and required from him a retraction; and this satisfaction not having been obtained, the French Government took possession of the Comtat of the Venaissin and of Avignon, and the King of Naples of Benevente and Pontecorvo.

The Parliament of Paris decreed the suppression of this letter or brief, on the 26th of February, 1768, upon the ground of the 77th Article of the Liberties of the Gallican Church, which states: "toutes bulles et expéditions venant de la Cour de Rome doivent être visitées, pour scavoir si en icelles il n'y aurait aucune chose qui portât préjudice, en quelque manière que ce soit, aux droits et libertés de l'Eglise Gallicane et à l'autorité du Roi."

On the 19th October of the same year, 1768, the Empress Maria Theresa published an edict at Milan, in the same manner, suppressing the Bull in *Cæna Domini* in all the States of Austrian Lombardy.

The Constitution of Prussia contains a stipulation in the 16th Article, to the effect, "that the intercourse of religious societies with their superiors is unimpeded. The publication of ecclesiastical ordinances is only subjected to the restrictions to which all other publications are liable." How far the dispositions of this Article have superseded the previous regulations existing in this country as to the *regium exequatur*, I shall learn from the Minister of Ecclesiastical Affairs, whose report upon the subject I will not fail to transmit to your Lordship without delay, as soon as I am able to obtain it.

I am, &c.

(Signed) WESTMORLAND.

No. 18.

The Earl of Westmorland to Viscount Palmerston.—(Received December 23.)

My Lord,

Berlin, December 19, 1850.

WITH reference to your Lordship's despatch of the 12th instant, I have now the honour of transmitting copies of a note which I have received from M. de Manteuffel and of its inclosures, containing the information desired by your Lordship relative to the ecclesiastical arrangements between the Prussian Government and the Court of Rome, together with the translation of the late King of Prussia's Cabinet Order of the 23rd of August, 1821, sanctioning the Papal Bull of the same year, entitled *De salute animarum* which forms the basis of those arrangements, and a copy of which is one of the inclosures in question.

Your Lordship will perceive by the memorandum annexed to M. de Manteuffel's note, that Article XVI of the Prussian Constitution of the 31st of January, 1850, has, as I expressed the belief in my despatch of yesterday's date, superseded the restrictions which formerly existed in respect to the publication of Papal bulls; but that the Pope has lately declared that he will continue to be guided, in his relations with the Prussian Government, by the stipulations of the Bull *De salute animarum*, above alluded to.

I have, &c.

(Signed) WESTMORLAND.

Inclosure 1 in No. 18.

M. de Manteuffel to the Earl of Westmorland.

M. le Comte,

Berlin, ce 18 Décembre, 1850.

POUR satisfaire, autant que les circonstances le permettent, au désir exprimé par Lord Palmerston dans sa dépêche du 13 du courant, dépêche dont vous avez bien voulu remettre une copie à M. de le Coq, j'ai fait dresser le petit mémoire ci-joint, que je vous prie de communiquer avec ses deux annexes au Gouvernement de Sa Majesté Britannique.

Agrécz, &c.

(Signé) MANTEUFFEL.

(Translation.)

M. le Comte,

Berlin, December 18, 1850.

TO meet as far as practicable the wishes expressed by Viscount Palmerston in his despatch of the 13th instant, of which you have been good enough to communicate a copy to M. de le Coq, I have caused the accompanying short memorandum to be prepared, which I request you to communicate with its two annexes, to the Government of Her Britannic Majesty.

Receive, &c.

(Signed) MANTEUFFEL.

Inclosure 2 in No. 18.

Memorandum relative to Ecclesiastical Arrangements between Prussia and the Court of Rome.

LE Gouvernement Prussien n'a pas conclu avec la Cour de Rome de Concordat ou d'autre arrangement formel pour l'organisation, la dotation, et la délimitation des archevêchés et évêchés de l'Eglise Catholique dans

les Etats du Roi. Tout ce qui a été concerté sur cette matière entre les deux Gouvernemens, se trouve consigné dans une série de notes échangées de part et d'autre.

Cette correspondance, cependant, outre qu'elle s'étend sur beaucoup de points de moindre importance, est trop étendue pour qu'il fût possible d'en donner promptement copie au Gouvernement Britannique. Aussi une pareille communication serait superflue, attendu que le résultat de toute la négociation fait l'objet de la Bulle *De salute animarum*, du 16 Juillet, 1821, publiée dans le No. 12 ci-joint du Bulletin des Lois. Dans l'ordre de Cabinet qui précède cette publication, le Roi en donnant sa sanction à la dite bulle, a fait expressément réserve de ses droits de souveraineté, ainsi que des droits de l'Eglise Evangélique et de ceux de ses sujets Protestants. Le bref ci-joint en copie, que le Pape a adressé dans le temps aux divers chapitres en Prusse, et qui n'a point été publié sert de complément à la Bulle *De salute animarum*.

Le Gouvernement Britannique trouvera dans ces deux pièces tous les renseignements qu'il lui importe d'obtenir sur les relations du Gouvernement Prussien avec la Cour de Rome.

Quant au droit des archevêques et évêques en Prusse de correspondre directement avec le Gouvernement Papal, et à la publication de bulles et de rescrits du Pape, l'un et l'autre leur est concédé par l'Article XVI de la Charte Constitutionnelle du 31 Janvier, 1850, dont la teneur suit :

“ La correspondance des communautés religieuses avec leurs supérieurs n'éprouvera aucun obstacle. La publication d'ordonnances en affaire de l'Eglise ne sera soumise qu'aux restrictions établies pour toute autre publication.”

Au reste le Pape a déclaré encore en dernier lieu, que la Bulle *De salute animarum* et le bref que l'accompagnait, lui serviraient toujours de règle de conduite dans ses relations avec le Gouvernement Prussien.

(Translation.)

THE Prussian Government has not concluded with the Court of Rome any Concordat or other formal arrangement for the organisation, endowment, or delimitation of the archbishoprics and bishoprics of the Catholic Church in the dominions of the King. Everything which has been agreed upon between the two Governments on this subject is consigned in a series of notes interchanged between them.

This correspondence, however, in addition to its comprising many points of minor importance, is too voluminous to allow a copy to be promptly communicated to the British Government. Such a communication is moreover rendered superfluous, inasmuch as the result of the whole negotiation is consigned in the Bull *De salute animarum*, of the 16th July, 1821, published in the subjoined No. 12 of the Bulletins of Laws. In the Cabinet order which precedes this publication, the King, while sanctioning the said bull, expressly reserves his sovereign rights, as well as the rights of the Evangelical Church and of his Protestant subjects. The brief, a copy of which is hereunto annexed, which the Pope issued at the time to the several chapters in Prussia, and which has not been published, serves as complement to the Bull *De salute animarum*.

The British Government will find in these two documents all the information which it requires as to the relations of the Prussian Government with the Court of Rome.

As regards the right of the archbishops and bishops in Prussia to correspond directly with the Papal Government, and the publication of bulls and rescripts by the Pope, both points are conceded to them by the XVIth Article of the Constitutional Charter of the 31st January, 1850, the tenor of which is as follows :

“ The correspondence of religious communities with their superiors shall meet with no hindrance. The publication of ordinances on church

affairs shall only be subject to the restrictions established for all other publications."

Finally, the Pope has even lately declared, that the Bull *De salute animarum*, and the brief which accompanied it, shall always serve him as a rule of proceeding in his relations with the Prussian Government.

Inclosure 3 in No. 18.

Papal Bull of August 17, 1821.

Pius Episcopus Servus Servorum Dei. Ad Perpetuam Rei Memoriam.

DE salute animarum, deque Catholicae Religionis incremento pro Apostolicae servitutis officio impense solliciti curas Nostras continuo intendimus ad ea omnia, quae Christi fidelium Spirituali regimini procurando magis apta, et utilia comparare posse dignoscamus. Hoc sane consilio jamdiu cogitationes Nostras praecipue intendimus in regiones illas, quae actu Dominatui subsunt Serenissimi Principis Friderici Guilelmi Borussiae Regis, ut illius intercedente ope, ac liberalitate rem sacram ibidem meliori, qua fieri posset methodo componere valeremus.

Probe siquidem Nobis ante oculos versabatur praesens Regionum illarum ratio, nec unquam deplorare cessaveramus ingentia damna promanata ex praeteritis rerum perturbationibus, quae florentissimas olim, atque ditissimas Germaniae Ecclesias a veteri, qua praestabant, splendore dejectas, ac bonorum praesidio spoliatas, ad miserrimum redegerant statum, ex quo summa in Catholicam Religionem, et in Catholicos ipsos perniciēs promanavit.

Cumque temporum conditio minime pateretur inclytae nationis Germanicae Ecclesias ad splendidum antiquum statum aspicere revocatas, omne studium diligentiamque adhibuimus, ut tantis malis ea saltem pararemus remedia, quae ad conservandam illis in regionibus Catholicam fidem, et ad animarum Christi fidelium salutem procurandam imprimis necessaria, et opportuna esse viderentur.

Hujus modi autem votis Nostris mirifice obsecundavit laudatus Borussiae Rex, cujus propensam admodum invenimus, et grato animo prosequimur voluntatem in Catholicos magno numero sibi subditos, praesertim ex Ei attributa grandi parte Provinciarum ad Rhenum, ita ut omnia tandem fausto, felicique exitu componere, ac pro Locorum positione, atque Incolarum commoditate novum in Borussiae Regno Ecclesiarum Statum, et Dioecesium limites nunc constituere, singulasque deinde Sedes, ubi deficiant, propriis, dignis, et idoneis Pastoribus donare valeamus.

Pro expressis igitur, ac de Verbo ad Verbum insertis habentes, omnibus iis, quae respiciunt infra dicendas, vel Ecclesiarum, et Capitulorum, eorumque peculiarium anteriorum jurium, ac praerogativarum extinctionem, aut immutationem seu reordinationem ac respectivarum Dioecesium dismembrationem, seu novam applicationem, nec non cujuscumque praecedentis juris metropolitici annulationem, et insuper quorumcumque interesse habentium consensui plenarie supplentes ex certa scientia, et matura deliberatione Nostris, deque Apostolicae potestatis plenitudine, praevia ex nunc omnimoda suppressione, extinctione, et annulatione vacantis Episcopalis Sedis Aquisgranensis, cum illius Cathedrali Capitulo ad statum simplicis Collegiatae ut infra reducendo, atque alterius Episcopalis Ecclesiae, et Capituli Cathedralis Corbejensis, nec non Monasterii Abbatiae nuncupati Neocellensis, vulgo Neuenzell, ex nunc itemque alterius Monasterii Abbatiae pariter nuncupati Olivensis ex nunc pro tunc, quando scilicet ex Persona Venerabilis Fratris Josephi de Hohenzollern Episcopi Warmiensis moderni Abbatis Olivensis quomodocumque vacaverit; ut communia quoque Germanorum vota Regiis etiam aucta commendationibus benigno favore prosequamur, ad Omnipotentis Dei gloriam, et ad honorem Beati Petri Apostolorum Principis Coloniensem Ecclesiam, jam antea inter Germaniae Sedes nulli antiquitate ac splendore secundam, sub Invocatione laudati Principis Apostolorum ad Metropolitanam Ecclesiam gradum restituimus, ac in illo perpetuo constituendam esse decernimus, eidemque Metropolitanam suffraganeas assignamus Episcopales Ecclesias Trevirensensem, Monasteriensem, atque Paderbornensem.

Episcopalem pariter Ecclesiam Posnaniensem sub Invocatione Sanctorum Petri et Pauli Apostolorum ad Sedis Metropolitanam gradum extollimus, ac

constituimus, eandemque alteri archiepiscopali Ecclesiae Gnesnensi sub Invocatione Sancti Adalberti per dimissionem Venerabilis Fratris Ignatii Racinski ultimi illius Archiepiscopi in manibus Nostris libere factam, et per Nos admissam ad praesens vacanti, aequè principaliter perpetuo unimus et aggregamus, ac Venerabili Fratri Timotheo Gorszenski moderno Episcopo Posnaniensi curam, regimen, et administrationem ipsius Ecclesiae Gnesnensis plenarie committimus, eundemque Archiepiscopum Gnesnensem, ac Posnaniensem constituimus, et deputamus, ac Archiepiscopum Gnesnensem, ac Posnaniensem semper esse, et appellari mandamus, ejusque juri Metropolitico Episcopalem Ecclesiam Culmensensem Suffraganeam assignamus.

Episcopales vero Ecclesias Wratislaviensem, ac Warmiensem huic sanctae sedi perpetuo immediate subjectas esse, ac remanere debere declaramus.

Singulis autem Archiepiscopis et Episcopis omnia et singula jura, praerogativas, ac privilegia aliis illarum Partium Archiepiscopis et Episcopis legitime competentia tribuimus, et confirmamus.

Quod spectat Capitulum Metropolitanae Ecclesiae Coloniensis, in eo Duas erigimus Dignitates, Praeposituram videlicet, quae Major erit post Pontificalem, ac Decanatum secundum, decem Canonicatus Numerarios, et quatuor Canonicatus Honorarios, ac praeterea, octo Vicarias, seu Praebendatus.

Archiepiscopalis Ecclesiae Gnesnensis Capitulum constabit imposterum ex unica dumtaxat Praepositi Dignitate, et ex numero sex Canonicatum, alterius vero Posnaniensis Archiepiscopalis Ecclesiae Capitulum efformabunt duo Dignitates Praepositi videlicet, ac Decani, octo Canonicatus Numerarii, et alii quatuor Canonicatus Honorarii, nec non octo Vicariae, seu Praebendatus.

Cathedralium Ecclesiarum Trevirensis, atque Paderbornensis respectivum Capitulum constabit ex Duabus Dignitatibus, una nempe Praepositi, ac altera Decani, ex octo Canonicatibus Numerariis, et quatuor Canonicatibus Honorariis, atque e Sex Vicariis, seu Praebendatis.

In Cathedrali Ecclesia Monasteriensi Capitulum constituent binae Dignitates, Major nempe Praepositurae, ac secunda Decanatus, octo Canonicatus Numerarii, quatuor Honorarii Canonicatus, et octo Vicariae, seu Praebendatus.

Culmensis Cathedralis Ecclesiae Capitulum constabit ex binis Dignitatibus, Praepositurae videlicet, ac Decanatus, ex octo Canonicatibus Numerariis, ex quatuor Honorariis Canonicatibus, et e sex Vicariis, seu Praebendatis.

Cathedralis Ecclesiae Wratislaviensis Capitulum efformabunt duo Dignitates, una videlicet Praepositurae, et altera Decanatus, decem Canonicatus Numerarii, quorum primus Scholastici Praebendam adnexam habebit, sex Canonicatus Honorarii, atque octo Vicariae, seu Praebendatus.

Demum quod attinet ad Episcopalem Ecclesiam Warmiensem, illius Cathedralis Capitulum in eo quo nunc reperitur statu consistet; reservata tamen Nobis, ac Romanis Pontificibus Successoribus Nostris facultate Capitulum ipsum ad aliarum in Regno Borussiae existentium Ecclesiarum normam imposterum conformandi.

Porro in qualibet ex antedictis Ecclesiis tam Archiepiscopalibus quam Episcopalibus Animarum Parochianorum cura habitualis residebit penes Capitulum, actualis vero ab uno e Capitularibus ad hoc expresse designando, et praevio examine ad formam sacrorum Canonum ab ordinario approbando cum Vicariorum auxilio exercebitur; ac in unoquoque ex iisdem Capitulis duo ab ordinario stabiliter deputandi erunt idonei Canonici, a quorum uno Poenitentiarum, ab altero vero sacram scripturam statis diebus Populo exponendo Theologi respective munera fideliter adimpleantur.

Singulis profecto ex primordiorum Capitulorum Canonicis Honorariis, quos ad personalem residentiam et ad Servitium Chori minime obligatos esse declaramus, idem cum Residentibus Canonicis aditus ad Chorum et ad caeteras Ecclesiasticas Functiones patebit; Nosque ad majus praedictarum Ecclesiarum decus, ac splendorem omnibus antedictis Dignitatibus, et Canonicis Indultum utendi iisdem Insigniis, quibus antea fruebantur, expresse confirmamus, et quatenus opus sit de novo concedimus, et elargimur.

Cuilibet similiter ex supradictis Capitulis Cathedralibus nunc et pro tempore existentibus, ut ipsi capitulariter congregati pro novo, et circumstantiis magis accomodato earundem Archiepiscopatum, et Episcopatum Ecclesiarum,

earumque Chori quotidiano servitio, nec non rerum, ac jurium tam spiritualium, quam temporalium prospero, felicique regimine, gubernio, ac directione, onerumque iis respective incumbentium supportatione, distributionum quotidianarum, et aliorum quorumcumque emolumentorum exactione, ac divisione, et poenarum incurrendarum a non interessentibus Divinis Officiis incursu, singulorum praesentis, et absentis notandis, caeremoniis, ac ritibus servandis, et quibusvis aliis rebus circa praemissa necessariis, et opportunis quaecumque Statuta, Ordinationes, Capitula, et Decreta, licita tamen, atque honesta, et Sacris Canonibus, Constitutionibus Apostolicis, Decretisque Concilii Tridentini minime adversantia sub praesidentia, inspectione, et approbatione respectivorum Archiepiscoporum, et Episcoporum edere, atque edita declarare, et interpretari, ac in meliorem formam redigere, et reformare, seu alia de novo, ab illis ad quos spectat, et pro tempore spectabit inviolabiliter observanda, sub poenis in contrafacientes statuendis pariter condere, atque edere libere, ac licite valeant, facultatem perpetuo concedimus, et impertimur.

Dignitatum Canonicorum, et Vicariorum, seu Praebendatarum numero tam in metropolitanis, quam in Cathedralibus Capitulis ut supra praefinito ad ea tam pro hac prima vice, quam pro futuris temporibus componenda statuimus, ut imposterum quilibet ad Dignitates, et Canonicatus asequendos infrascriptis ornatus esse debeat requisitis, nempe, quod majores sacros ordines susceperit, utilemque Ecclesiae operam saltem per quinquennium navaverit, vel in Animarum Cura exercenda, aut adjuvanda sese praestiterit, vel Theologiae, aut Sacrorum Canonum Professor extiterit, vel alienique in Regno Borussiae existenti Episcopo in Dioecessanae administrationis munere inservierit, vel demum in Sacra Theologia, aut in Jure Canonico Doctoratus Lauream rite fuerit consequutus; postremae tamen hujusce conditionis effectum ex justis, gravibusque causis per Decennium a Data praesentium computandum in suspensum remanente. Cujuscumque vero conditionis ecclesiasticos Viros aequali jure ad Dignitates, et Canonicatus obtinendos gaudere debere decernimus. Itemque statuimus unam in Monasteriensi, ac alteram in Vratislaviensi Cathedralibus Ecclesiis Canonicae Praebendam designandam, et ab eo ad quem juxta mensium alternativam pertinebit, semper, et quodcumque conferendam esse nui, et alteri canonica requisita habentibus ex Professoribus Universitatum in dictis respectivis Civitatibus existentium; atque ulterius decernimus, tam praepositum Parochialis Ecclesiae Sanctae Hedwigis Civitatis Berolinensis, quam Decanum commissarium Ecclesiasticum in Comitatu Glacensi pro tempore existentes inter Honorarios Canonicos Vratislaviensis Cathedralis Capituli esse cooptandos; ita ut pari cum iis fruantur jure, locum illum, atque Ordinem tenentes, qui secundum respectivae Nominationis tempus ipsis competere dignoscatur. Quilibet autem ex Canonicis Honorariis in unumquodque ex antedictis Capitulis cooptandus sumendus erit ex numero Archipresbyterorum Animarum curam in respectiva Dioecesi laudabiliter exercentium.

Quod vero attinet ad novam Supradictorum Capitulorum pro hac prima vice ea qua convenit celeritate explendam compositionem, infranominando harum Literarum Nostrarum Exequutori potestatem facimus, ut in unaquaque Ecclesia tam Dignitates, et Canonicatus, quam Vicarias, seu praebendatus, actu vacantes, quae ad aequandum numerum ut supra designatum fortasse deficient, dignis et idoneis Ecclesiasticis Viris ex delegata sibi speciali Apostolica facultate, ac hujus sanctae sedis nomine conferat; ita tamen ut ii dumtaxat, qui de Dignitatibus, et Canonicatibus ab ipso provisi fuerint, Apostolicas novae Provisionis, et Confirmationis Literas infra sex menses ex tunc proximos a Dataria Nostra impetrare, et expedire facere teneantur. Et si contingat, quod in aliqua ex Metropolitanis, vel Cathedralibus in Borussiae Regno existentibus Ecclesiis Dignitates, Canonici, et Vicarii, seu Praebendati legitime, et canonice instituti adhuc viventes respectivum numerum a Nobis ut supra praefinitum excedant, praedictus Exequutor Apostolicus, vocatis auditisque interesse habentibus, aut per voluntarias jurium abdicaciones ab illis, vel ab illorum aliquibus emittendas rem componat, proviso insimul per congruas vitalitias Pensiones, jam a Serenissimo Rege pollicitas Dimittentium sustentationi, aut si abdicaciones hujusmodi minime habeantur, vel sufficientem numerum non attingant in hoc casu, qui numerum in supradicta Nostra dispositione praefinitum excedentes Dignitatum, Canonicatum, et Vicariatuum possessionem postremo Loco adepti fuerint, si apud Ecclesias suas resideant, Capitulares quidem, et

Vicarii respective esse pergent, juribus, et praerogativis nunc iis competentibus fruentur, suosque redditus in ea quantitate percipient, qua in praesens gaudent. Sed quando Beneficia ab iis obtenta quocumque modo vacaverint aliis conferri minime poterunt, atque ex nunc pro tunc suppressa, et extincta deberant intelligi, ad hoc ut deinceps praefixus ut supra numerus in respectivis Capitulis ad amissum observetur. Quod si in aliquo Capitulo Canonici minoribus in praesentiarum fruuntur redditibus, quam qui futuris eorum loco assignantur, nullum isti reddituum augmentum consequentur, nisi ab Exequutore Apostolico singillatim similibus amplioribus redditibus donati fuerint.

Futuro autem tempore, ac successivis vacationibus a Nobis, et Romanis Pontificibus Successoribus Nostris Praepositura, quæ Major post Pontificalem Dignitas in supramemoratis Archiepiscopalibus, et Episcopalibus Ecclesiis, nec non in Ecclesia Aquisgranensi in Collegiatam ut infra erigenda, itemque Canonici in Mensibus Januarii, Martii, Maii, Julii, Septembris, ac Novembris in praefatis Ecclesiis vacantes conferentur quemadmodum in Capitulo Wratislaviensi hactenus factum est: quo vero ad Decanatus in praedictis Metropolitanis, et Cathedralibus Ecclesiis, et ad Canonici tam in ipsis, quam in dicta Aquisgranensi Ecclesia in Collegiatam erigenda, in aliis sex mensibus vacantes ab Archiepiscopis et Episcopis respective conferentur. Vicariatus tem, seu Praebendatus in praedictis Ecclesiis quocumque mense vacaverint respectivorum Archiepiscoporum et Episcoporum collationi relinquimus.

Rem denique Germaniae gratissimam, simulque praeaudato Borussiae Regi acceptissimam, Nos esse facturos judicantes, si electionum jure in Transrhenanis Ecclesiis retento, ac confirmato, et in Cisirhenanis cessato per Apostolicas Dispositiones anni millesimi octingentissimi primi nunc in ipsis Cisirhenanis Diocesis praefati Regis Temporalis Dominio subjectis, idem jus electionis redintegretur, quoad Capitula Ecclesiarum ad Germaniam pertinentium, nempe Coloniensis, Trevirensis, Wratislaviensis, Paderbornensis et Monasteriensis, decernimus, ac statuimus, quod alia quacumque ratione vel consuetudine nec non electionis, et postulationis discrimine, nobilitatisque natalium necessitate sublatis Capitulis praedictis, postquam supradicta methodo constituta, et ordinata erunt facultatem tribuimus, ut in singulis illarum sedium vacationibus per Antistitem respectivorum obitum extra Romanam Curiam, vel per earum sedium resignationem, et abdicationem (excepto tamen praesenti casu vacationis Coloniensis, ac Trevirensis Ecclesiarum) infra consuetum Trimestris spatium Dignitates, ac Canonici capitulariter congregati, et servatis Canonice regulis novos Antistites ex Ecclesiasticis quibuscumque viris Regni Borussiae incolis, dignis tamen et juxta Canonicas sanctiones idoneis servatis servandis ad formam sacrorum Canonum eligere possint. Ad hujusmodi autem Electiones jus suffragii habebunt Canonici, tam Numerarii, quam Honorarii, ne exclusis quidem illis, qui ultra Capitularium numerum in hac reordinatione praefinitum, quoad vixerint in ipsis Capitulis conservabantur.

Nihil vero in Capitulis Episcopalium Ecclesiarum Warmienses, et Culmensis, nec non Archiepiscopalium Gnesnensis et Posnaniensis invicem perpetuo unitarum, innovantes mandamus dumtaxat ut Gnesnenses, et Posnanienses Capitulares ad Archiepiscopi electionem conjunctim debeant procedere. Quod autem spectat vacantem Episcopalem Ecclesiam Wratislaviensem, specialem potestatem facimus, quinque actu in illa existentibus Dignitatibus, nempe Praeposito, Decano, Archidiacono, Scholastico, et Custode, octo Canonice residentibus, et sex Canonice Honorariis, qui nunc ejus Ecclesiae Capitulares habentur, ut ad novi Episcopi electionem Canonicam modo, et forma praemissis, hac etiam prima vice procedere possint, et valeant.

Quaelibet vero Electionum hujusmodi Instrumenta in authentica forma exarata, ad Sanctam Sedem de more mittentur, a qua si Electio Canonice peracta agnosceretur, et ex processu Inquisitionis deinde a Romano Pontifice in singulis casibus alieni ex Archiepiscopis, vel Episcopis intra fines Regni Borussiae existentibus committendo, et ad formam instructionis jussu San. Mem. Urbani Octavi Praedecessoris Nostri editae diligenter exarando de electi idoneitate constiterit, electiones hujusmodi a Nobis, et Romanis Pontificibus Successoribus Nostris juxta statutum morem per Apostolicas Literas confirmabuntur.

In singulis praeterea Civitatibus, tam Archiepiscopalibus, quam Episcopalibus unum Clericorum Seminarium, vel conservandum vel de novo quazuprimum

erigendum esse statuimus, in quo is Clericorum numerus ali, atque ad formam Decretorum Sacri Concilii Tridentini institui, ac educari debeat, qui respectivarum Dioecesium amplitudini, et necessitati respondeat, quique ab Exequutore praesentium Literarum congrue erit praefiniendus: Archiepiscopi tamen Gnesnensis, et Posnaniensis iudicio, et prudentiae relinquimus, vel in utraque Civitate proprium, ac distinctum, vel unum tantum in Posnaniensis Civitate, quia amplis aedibus Constat, pro Clericis ambarum Dioecesium Seminarium constabilire prout Ecclesiarum ipsarum utilitas postulaverit.

Volentes nunc praevia dismembratione, separatione, atque immutatione nonnullorum Locorum, et Paraeciarum a priorum Ordinariorum jurisdictione subtrahendarum ad effectum illa, et illas Dioecesium infrascriptis noviter aggregandi, atque incorporandi, prout magis in Domino opportunum visum fuerit, et auditis etiam Venerabilibus Fratribus Nostris S. R. E. Cardinalibus Congregationi de Propaganda Fide Praepositis ad novam Dioecesium circumscriptionem procedere, ut singularum distinctis finibus quaestiones omnes auferantur circa Spiritualis jurisdictionis exercitium, earum Distributionem, ac Divisionem de Apostolicae potestatis plenitudine decernimus, praescribimus, et constituimus juxta eum, qui sequitur, modum, videlicet:

Metropolitanae Ecclesiae Coloniensis Dioecesis efformabitur ex Paraeciis sexcentum octoginta sex partim in sinistra, partim in dextera Rheni ripa positis. Et in sinistra quidem complectetur Paraecias omnes pridem in suppressa ad praesens Aquisgranensi Dioecesi contentas, quae ad Provincias pertinent Coloniensem, Dusseldorphinam, et Aquisgranensem, nempe ultra Paraecias Civitatum Coloniae, et Aquisgrani Ecclesias Cantionales nuncupatas—Bergheimerdorff—Bonna, vulgo Bonn—Brehl—Kerpen—Lechenich—Lessenich—Loevenich—Meckenheim—Münstereiffel—Zolbiacum, vulgo Zülpih—Crefeld—Dahlen—Dormagen—Elsen—Gladbach—Neuts—Urdingen—Viersen—Burtscheid—Marcodurum, vulgo Düren—Erkelenz—Eschweiler—Geilenkirchen—Gemund—Heinsberg—Juliacum, vulgo Julich—Linnig—Montjoie—et Niddeggen—una cum earum Ecclesiis succursalibus, et adnexis, quae in dictis Provinciis intra Borussici Regni fines modo inveniuntur, a Cantonalibus disjungendo Paraecias succursales, et adnexas extra Regnum positas, et viceversa succursales, et adnexas pridem pendentes a Cantonalibus positae extra Regnum aggregando Cantonalibus in Regno existentibus. Complectetur praeterea Cantionales Ecclesias ad Leodiensem Dioecesim pertinentes, ac temporariae administrationi moderni Vicarii Capitularis Aquisgranensis ab Apostolica Sede commissas videlicet Ecclesias Cantionales nuncupatas—Cronenburg—Eupen—Malmedy—Niederkrüchten—Schleiden—et St Vith—una cum earum succursalibus, et adnexis in Borussiae ditione sitis, ac sex Paraeciis succursalibus, nuncupatis—Afden—Alsdorff—Merkstein—Rolduc—Ubach,—et Welz—modo dependentes a Cantionali—Herckraede—posita extra Regnum Borussiae. Insuper complectetur novemdecim Provinciae Aquisgranensis ad Trevirensis Dioecesim usque nunc pertinentes Paraecias nuncupatas—Allendorff—Blankenheim—Dollendorff—Hollerath—Lommersdorff—Manderfeld—Marmagen—Mülheim—Nettersheim—Reifferscheid—Rescheid—Rigsdorff—Rohr—Schmiltheim—Schonberg—Steinfeld—Tondorff—Udelhoven—et Wildenberg—cum suis adnexis Ecclesiis. In dextera autem Rheni ripa, Provinciisque Coloniensi Dusseldorphiana, et Confluentina Paraecias complectetur Regionum—Juiliensis—Dusseldorphianae—Essensis—et Siegburgensis—cum earum succursalibus, et adnexis demptis tamen Paroecia—Romershagen—Faderbornensi Dioecesi ut infra applicanda, nec non Paroeciis—Hachenburg—et Marienstadt—nuncupatis, quae in Ducatu Nassariae reperiuntur.

Dioecesis Episcopalis Ecclesiae Trevirensis, ab omni Metropolitico jure Archiepiscopi Mechliniensis subtractae, ac Metropolitanae Coloniensis suffraganeae adsignatae, constabit infra Regni Borussici fines ex Paroeciis sexcentum triginta quatuor, scilicet in sinistra Rheni ripa, ex iis omnibus, quae actu ad illam Dioecesim pertinent, et provincia Trevirensi continentur. Tum vero ex ea suppressae nunc Dioecesis Aquisgranensis parte, quae in Confluentine Provincia continentur, videlicet civitate ipsa Confluentiae, et Ecclesiis Cantonalibus nuncupatis—Adenau—Ohrweiler—Andernach—Boppard—Castellaun—Cochem—Creuznach—Kaysersesch—Kirchberg—Krin—Lutzerath—Mayen—Münstermayfeld—Niederzissen—Oberwesel—Polch—Pünderich—Remagen—Rübenach—Simmern—Sobernheim—St. Goar—Stromberg—Treiss—Ulmen—Wanderath, et Zell—cum suis succursalibus, et adnexis. Porro autem ex centum triginta

duabus Paroeciis tum Cantonalibus, tum succursalibus, cum suis adnexis, quae in circumscriptione Anni millesimi octingentesimi primi Dioecesi Metensi fuerant attributae, ac deinde temporariae administrationi Vicarii Capitularis Trevirensis ab Apostolica Sede commissae. In dextra vero Rheni ripa ex cunctis Ecclesiis ditionis Borussicae, quae pridem ad ipsam Trevirensis Dioecesis spectabant, quaeque per Gallicanarum Dioecesium circumscriptionem anno millesimo octingentesimo primo a Nobis factam ab illa fuerant dismembratae, ac in presens a Vicario Apostolico in oppido Ehrenbreitstein residente ad Nostrum beneplacitum administrantur. Tandem vero extra praedictum Paraeciarum sexcentum triginta quatuor numerum, Regnique Borussici fines cunctis illis, quae in Territoriis Principum Coburgensis, Homburgensis, et Oldenburgensis inveniuntur jam ipsa Dioecesi Trevirensi pertinentibus.

Dioecesis Episcopalis Monasteriensis Ecclesiae Suffraganeae Metropolitanae Coloniensis efformabunt biscentum octoginta septem Paraeciae intra fines Regni Borussici sitae et aliae quoque extra ejusdem Regni fines in eodem Dioecetano Territorio actu comprehensae de quibus in aliud tempus disponendi Nobis, et Romanis Pontificibus successoribus Nostris prout opportunum in Domino judicabitur facultatem reservamus. Adjungimus praeterea Regiones nuncupatas — Recklinghausensem — Sterkrathensem — et Reesensem — pridem antiquae Coloniensis Dioecesis, exclusa samem ab hac postrema Regione Paraecia Oeffelt sub Temporalis Belgici Regni dominio existente, nec non ex Dioecesi Aquisgranensi nunc suppressa Contonales Ecclesias nuncupatas — Calcar — Cleve — Cranenburg — Dulken — Geldern — Goch — Kempen — Meurs — Rheinberg — Wonkum — Wesel, — et Xanten — cum suis succursalibus, et adnexis, exceptis tamen iis Dominio Regis Belgarum in temporalibus subjectis. Adjungimus insuper Paraecias nuncupatas — Elten, et Emmerich — cum sua filiali huc usque sub missionibus Rollandicis extantes, itemque Paraeciam — Damme — quam ab Osnabrugensi Dioecesi separamus, et Paraeciam — Oldenburgensem — quam sejungimus a Missionibus septemtrionalibus, quaeque pertinent ad ditionem Ducis Oldenburgensis. Denique moderno, ac pro tempore existenti Episcopo Monasteriensi perpetuo regendas, et administrandas committimus quinque Paraecias nuncupatas — Brochterbeck — Ibbenbüren — Mettingen — Recke — et Halverde, quae suffraganei Osnabrugensis Administrationi ad Apostolicae sedis beneplacitum erant commissae.

Paderbornensis Episcopalis Ecclesiae, Coloniensis Metropolitanae Suffraganeae, Dioecesis iisdem, quibus nunc reperitur, manebit circumscripta limitibus, Illi praeterea adjungimus alteram nunc suppressam Dioecesis Corbejensem cum integro suo Territorio a venerabili Fratre Ferdinando Episcopo Monasteriensi administratam, nec non ex Transrhenano antiquae Coloniensis Dioecesis Territorio Decanatus — Meschedensem — Altendornensem — Brilonensem — Wormbachensem — Medebachensem — et Wettenscheidensem — nuncupatos cum suis Parochialibus, et Filialibus Ecclesiis, pariterque Commissariatum — Haarensem, — et Paraeciam — Römershagen —, et ulterius — Rittbergensem —, et Wiedenbrückensem — Decanatus, cum suis respective Parochialibus, et Filialibus Ecclesiis ab Osnabrugensi Dioecesi separandos, nec non a Dioecesi olim Moguntina, postea Ratisbonensi disjungendas Paraecias — Siegen — et Obernetphen — nuncupatas, Civitatem Heiligenstadt — cum suo Decanatu, et Decanatus — Beurensem — Bischoferodensem — Kirchworbensem — Külstädtensem — Lengefeldensem — Neuendorfensem — Nordhausensem — Rüstenfeldensem — Wiesenfeldensem — cum suis Parochialibus, et Filialibus Ecclesiis, et Civitatem Erfurti — cum tribus Paroeciis suburbanis, atque Paraecias in Territorio Magni Ducis Saxoniae Wimarensis existentes, nec non Paraeciam Eppensem extra Borussiae Regnum in Principatu Waldeccensi ab antiqua Coloniensi Dioecesi segregandam, et demum a Missionum septemtrionalium Vicariatu Apostolico separandas, et a futuris, ac pro tempore existentibus Paderhornensibus Episcopis perpetuo administrandas Paraecias — Mindensem — Scilicet in Westphalia, et in Provincia Saxoniae — Adersleben — Althaldensleben — Ammensleben — Aschersleben — Hattmersleben — Ecclesias Sti. Andreae, et Sanctae Catharinae Halberstadii — Hamersleben — Hedersleben — Huysburg — Magdeburg — Marienbek — Marienstuhl — Meyendorf — Stedal — Halle — et Burg — Attentis autem grandaeva aetate, ac egregiis de Ecclesia, et de Catholica Religione meritis, Venerabilis Fratris Francisci Egonis a Fürstemburg praestantissimi Hildesiensis, ac Paderbornensis Praesulis, ac Missionum septemtrionalium Vicarii Apostolici, ne ipsi novae administrationis onus adjungatur decernimus, et mandamus nihil circa talem Antistitem in praesens

esse innovandum, sed cuncta in eo, quo nunc reperiuntur, statu interea relinquendo, antedictam Paderbornensis Dioecesis ampliationem eo dumtaxat tempore suum effectum sortiri debere, cum Episcopali Sedi Paderbornensi de laudati Antistitis Francisci Egonis Persona quomodocumque vacanti novus Episcopus Apostolicae Sedis auctoritate institueretur. Interea vero omnia Loca, et Paroeciae, quae a Coloniensi, et Osnabrugensi Dioecesebus ut supra dismembrantur, administrationi peculiaris Vicarii Apostolici a Nobis committentur, ut inibi usque ad Paderbornensis Episcopalis sedis vacationem, ac futuri novi Episcopi institutionem, exerceat spirituales jurisdictionem: atque insuper alia loca, et Paroeciae a Dioecesi olim Moguntina postea Ratisbonensi disjuncta, et ab Episcopo pridem Corbejensi, nunc Monasteriensi administrata temporaneae pariter Vicarii Apostolici Administrationi tradentur.

Archiepiscopalia Gnesnensis et Posnaniensis invicem perpetuo aequae principaliter unitarum Dioeceses efformabunt ea ipsa loca quae actu in iisdem continentur, post novissimam Dioecesium Regni Polonici a Nobis peractam Circumscriptionem, exceptis tamen Decanatibus Schlochaviensi—Tuchelensi,—et Camenensi, Culmensi Dioecesi ut infra adjiaciendis, ac praeterea Decanatus Kruszwicensis, Junivladislaviensis, et Gniewkowensis a Dioecesi Wladislaviensi separandi, qui ad praesens a Vicario Apostolico Gedanensi administrantur nec non Decanatus Ostrzeszowensis et Kempnensis disjungendi a Dioecesi Wratislaviensi Divisionem autem et assignationem Territorii Dioecesanum pro una, et altera Dioecesi statuendam infradicendo praesentium Literarum Exequutori peragendam expresse committimus.

Dioecesis Episcopalis Ecclesiae Culmensis, suffraganae Archiepiscopi Gnesnensis, et Posnaniensis, constabit ex biscentum quindecim Paroeciis nempe cum suis respective Succursalibus, et Filiabus Ecclesiis ex Decanatibus Lessensi, Rhedensi, Neumarkano, Loebaviensi, Lautenburgensi, Strasburgensi, Gollubensi, Thorunensi, Culmensi, Culmseensi, et Gureznensi cum Paroecia Bialuten nuncupata: quae postremae duo olim Dioecesis Plosensis a suffraganeo Culmensi in praesens administrantur; itemque ex Decanatibus Gedanensi Putzigensi, Mirchaviensi, Dirschaviensi, Stargardensi, Moewensi, Neuenburgensi, Schwetzensi, Lauenburgensi, Schlochaviensi, Tuchelensi, Camenensi, et Fordonensi; qui Decanatus pridem Dioecesis Wladislaviensis, nunc ab antedicto Vicario Apostolico Gedanensi administrantur, nec non ex Territorio Monasterii Abbatiae nuncupatae Olivensis ut supra suppressi ex nunc pro tunc quando ex Persona moderni Abbatis quomodocumque vacaverit. Ex quoniam expositum Nobis fuit aptas Culmae deficere Domos pro Episcopi, et capituli decenti habitatione, facultatem tribuimus Apostolico harum literarum Exequutori, ut auditis interesse habentibus, ac re mature perpensa, firmo remanente Titulo, ac denominatione Episcopatus Culmensis, et opportunis assignatis Ecclesiae atque aedibus, residentiam Episcopi, et Capituli Culmensis, si ita in Domino expedire judicaverit, pelplinum transferre libere, ac licite possit, et valeat proviso insinual congruae Cathedralis Culmensis manutentioni.

Wratislaviensis Episcopalis Ecclesiae huic Apostolicae Sedi immediate subjectae Dioecesis efformabit actualis illius Territorium, exceptis dumtaxat Decanatibus Ostrzeszowensi, Kempnensi Dioecesi Posnaniensi ut supra incorporatis, at insuper Decanatus Plessensis, et Bythomiensis a Craeviensis Dioecesi disjuncti, nec non sequentes Paroeciae in Lusatia, videlicet Neocellensis Monasterii Nullius ut supra suppressi, et aliae nuncupatae—Wittichenau, Guntersdorf, Hennersdorf, Pfaffendorf, Ubersdorf, a Decano Collegiatae Ecclesiae Sancti Petri Oppidi Buddissinae in Lusatia superiori, haecenus administratae: quae omnes insinual intra fines Borussiae Regni Paroeciae ad sexcentum viginti unius numerum ascendent. Conservabit item illas, quas actu habet in Austriaca Ditione Paroecias. Euturi praeterea, ac pro tempore existens Wratislaviensis Episcopi Administrationi perpetuo subicimus eas, quae a Vicario Apostolico Missionum septentrionalium fuerunt hucusque administratae Paroeciae in Civitatibus Berolini, Potsdamii, Spandaviae, Franefurti ad Viadrum, Stettini, et Stralsundiae, quaeque imposterum vi subdelegationis Episcopi Wratislaviensis a supramemorato Praeposito Parochialis Ecclesiae sanctae Hedwigis dictae Civitatis Berolinensis erunt administrandae.

Denique Warmiensis Episcopalis Ecclesiae, Apostolicae sedi pariter immediate subjectae Dioecesis ex proprio actuali Dioecetano Territorio constabit, atque insuper ex Decanatibus—Fürstenwerdensi—Neuteichensi—Mariaenburgensi—Stumensi,—et Christburgensi—cum suis Ecclesiis tam succursalibus,

quam Filialibus a Dioecesi Culmensi disjungendis, ita ut integra Dioecesis centum novemdecim Paraecias complectatur.

Praedictas itaque Civitates, et Ecclesias Archiepiscopales et Episcopales, itemque Paraecias et Loca respectivis Ecclesiis pro Dioecesi attributa, eorumque Incolas utriusque Sexus tam Clericos, quam Laicos iisdem Ecclesiis eorumque Praesulibus pro suis respective Civitate, Territorio, Dioecesi, Clero et Populo perpetuo assignamus, et in spiritualibus omnimodo subijcimus ad hoc ut cuilibet Antistiti vel jam promoti, vel in futurum Apostolica auctoritate promovendo liceat per se vel per alios eorum nomine (postquam tamen supramemoratus Josephus Episcopus Warmiensis praesentes Literas debitae executioni mandaverit, et quoad nonnullas dispositiones nunc pro tunc a Nobis factas cum tempus pro illarum executione ut supra definitum advenerit) veram, realem, actualem, et corporalem possessionem regiminis, administrationis, et omnimodo Juris Dioecesani, et Ordinarii in praedictis Civitatibus, ac earum Ecclesiis, et Dioecesis, nec non bonis, aliisque redditibus ad ipsarum dotationem, ut infra assignandis vigore literarum Apostolicarum Canonicae Institutionis libere apprehendere apprehensamque retinere; proptereaque statim, ac in locis per hanc Nostram dispositionem singulis Dioecesis nunc attributis possessionem sumpserint, illarumque Regimen actu consecuti fuerint, omnis antiquorum sub quocumque Ordinariis, seu Vicariis, vel administratorum Titulo jurisdictione cessare debet, omnesque facultates in Partibus, et locis ab eorum jurisdictione subtractis nullius erunt amplius roboris vel momenti.

Nos enim ad respectivorum Dioecesanorum utilitati consulendum praescribimus, et injungimus, ut omnia et singula Documenta respicientia Ecclesias, Dioeceses, Paraecias, et loca ut supra dismembrata, ac de novo applicata a veteribus Cancellariis extrahi, et Cancellariis Dioecesium quibus erunt incorporata opportuna forma tradi, atque in iis perpetuo debeant asservari.

Vicissim autem Venerabiles Fratres moderni, ac pro tempore existentes Pragensis, et Olomucensis Archiepiscopi, nec non Episcopi Reginorhadecensis et Litomericensis eandem, quam nunc exercent, Spiritualem Jurisdictionem in Regno Borussico etiam in posterum conservabunt.

Filiales vero, et Parochiales Ecclesias earumque Fractiones in hac Nostra Dispositione non comprehensas, et extra Regnum Borussiae existentes a Matricibus, et Parochialibus in eodem Regno positae disjungimus, et a proximioribus ordinariis aliis Matricibus, et Parochialibus Ditionum, quibus in temporalibus subjacent, applicandas esse mandamus, ac vicissim de Paroeciis, et Filialibus Ecclesiis cum suis Fractionibus intra Borussicum Regnum positae, quae a matricibus extra idem Regnum existentibus pendent, idem observandum esse decernimus; reservata Nobis et huic Apostolicae Sedi cura de Spirituali Regimine aliis Partibus, et Locis si opus fuerit providendi.

Inspectis autem Dioecesium Borussici Regni amplitudine ac magno Dioecesanorum numero, cum difficile admodum esset Archiepiscopis, et Episcopis Confirmationis Sacramentum Christi fidelibus administrare, aliaque Pontificalia munera sine alterius Episcopi opera, et auxilio exercere; hinc Nos confirmantes suffraganeatus in Dioecesis Regni Borussiae in quibus constituti reperiuntur, eos in Coloniensi, ac Trevirensi Dioecesis reintegramus, et de novo constituimus: atque idcirco quilibet Archiepiscopus, et Episcopus Nos, et Romanos Pontifices Successores Nostros juxta praescriptum morem supplicabit, ut aliquis Ecclesiasticus vir opportunis praeditus requisitis, ad Suffraganei munus designetur, ac praevio Canonico processu, servatisque consuetis formis de Episcopatu Titulari in Partibus Infidelium cum assuetae congruae adsignatione provideatur.

Quoniam vero praeclaram antiquissimam Coloniensem Sedem Archiepiscopalem duximus reintegrandam, potius quam Episcopalem Sedem Aquisgranensem illius quodammodo loco viginti dumtaxat ab hinc annis erectam conservare; aliquam tamen Civitatis Aquisgranensis rationem habendam esse existimantes, cognita etiam in id propensa Serenissimi Borussici Regis Voluntate, decernimus, ac statuimus, quod Ecclesia sub Titulo Beatae Mariae Virginis antea Cathedralis in Collegiatam immutetur, ejusque Collegiale Capitulum constet ex unica tantum Praepositi dignitate, et Sex Canonicatibus, cujus, et quorum Collatio semper, quoad Praeposituram Apostolicae Sedi, et quoad Canonicatus eidem Sedi Apostolicae alternatim cum Coloniensi Archiepiscopo spectare debeat ac pertinere. Hujusmodi autem Capitularibus, ex peculiari gratia licentiam deferendi Cappam magnam sericam, violacei coloris cordulis sericis subsutam cum pellibus armellinis hyemali, aestivo autem tempore Mozzettam supra Roc-

chettum concedimus et indulgemus, atque ulterius facultatem condendi statuta iisdem modo, et forma quibus de Capitulis Cathedralium Ecclesiarum supra eluculenter dictum est tribuimus, et impertimur.

In Exequutorem itaque praesentium Nostrarum Literarum praedictum Venerabilem Fratrem Josephum Episcopum Warmiensem, de ejus prudentia, doctrina, atque integritate plurimam in Domino fiduciam habemus, expresse nominamus, eligimus, constituimus, et deputamus eidemque committimus, ut supradicta omnia, et singula a Nobis disposita ad praestitutum finem perducant, atque pariter ad effectum vacantes Ecclesias de idoneis Pastoribus, quae prima necessitas est, cito providendi, et cunctas res Ecclesiasticas ad meliorem statum, et ordinem revocandi quaslibet Ecclesias congrua, et firma dotatione muniri studeat, media ad hoc necessaria benevolentissime, ac liberaliter exhibente praelaudato Serenissimo Borussiae Rege, qui magnanimi Principis animum, et propensissimam erga Catholicos ejus Imperio subjectos voluntatem pro ordinandis absque ulla mora Dioecesium omnibus Regni Borussiae aperte declaravit, et sequentibus ratione ac modo stabilienda, et applicanda proposuit.

Super publicis Regni Sylvis nominatim designandis tot Census auctoritate Regia imponentur, quot erunt Dioeceses dotandae, et in respectiva quantitate, ut ex iis annui fructus ab omnibus cujuscumque generis, oneribus prorsus libere percipi possint qui satis sint, vel ad integram ipsarum Dioecesium dotationem si nullam actu habeant, vel ad Supplementum ejusdem dotationis si partem aliquam suorum Bonorum adhuc possideant, ita ut Singulae Dioeceses eos annuos redditus imposterum habeant, qui redditibus pro Archiepiscopali, vel Episcopali mensa pro Capitulo, pro Seminario Dioecetano, proque suffraganeo statutis in quantitate singulis inferius designanda perfecte respondeant, atque hujusmodi Censuum proprietas per Instrumenta in legitima, validaque Regni forma stipulanda, et a praelaudato Rege subscribenda unicuique Ecclesiae conferetur. Et quoniam enunciatae Sylvae, prout et publica Bona omnia Regni Borussiae, ob aes alienum, a Gubernio, bellorum causa contractum, hypotheca gravata sunt, atque ob id super nulla earum parte Census imponi eorumque fructus percipi, salva fide, possunt, antequam imminuta, per solutiones a Gubernio Creditoribus hypothecariis factas, aeris alieni summa, sufficiens sylvarum quantitas hypothecae vinculo liberata fuerit; cumque secundum legem, qua Serenissimus Rex Creditoribus publicis cavit, anno millesimo octingentesimo trigesimo tertio a Magistratibus definiendum sit, qui agri ab eo vinculo soluti, quique adhuc nexi remanebunt, hinc decernimus praedictos Census, super sylvis supramemoratis, dicto Anno millesimo octingentesimo trigesimo tertio, et citius etiam si prius antedictae sylvae ab hypotheca saltem pro rata Censuum imponendorum liberatae fuerint, esse imponendos, proptereaque a singulis Dioecesium immediate saltem post annum millesimum octingentesimum trigesimum tertium praedictorum Censuum fructus esse percipiendos ex nunc autem usque ad totum annum millesimum octingentesimum trigesimum tertium, vel usque ad celeriores dictorum Censuum impositionem, eandem argenti summam fructibus Censuum respondentem ab Aerariis Provincialibus unicuique Dioecesi esse numerandam. Ne vero ullo modo numerationis prorogatio ultra annum millesimum octingentesimum trigesimum tertium timeri possit, quum forte Magistratus intercesserint, ne Census imponantur, non satis diminuta publici aeris alieni quantitate, laudatus Rex ultro promisit, conceptisque verbis sese obligavit, si praeter omnem expectationem id accadat, se curaturum esse, ut tot agri Regiis impensis emanant pleno domini jure singulis Ecclesiis tradendi, quot necessarii sint, ut eorum redditus annuas illas summas exaequent, quae a Censibus percipiendae essent, nisi impedimentum illud intercessisset. Quae omnia cum Serenissimus Rex per Diplomata in valida Regni forma a se subscribenda in tuto ponere, sit pollicitus, ut plenum, et integrum effectum suo tempore sortiantur; hinc supradictus Josephus Episcopus Diplomata hujusmodi singulis Ecclesiis tradet in respectivis Archivis asservanda.

Similes autem redditus ad formam promissionis Regiae, deductis oneribus, constare debent sequentes annuas dotationum summas, nempe pro Archiepiscopo Coloniensi, ac pro Archiepiscopo Gnesnensi, et Posnaniensi duodecim millium thalerorum Borussicorum, pro Episcopis Trevirensi, Monasteriensi, Paderbornensi, et Culmensi octo millium thalerorum ejusdem monetae, pro Episcopo vero Wratislaviensi duodecim millium thalerorum dictae monetae, ultra redditus fundi Würbeniani ad ejus Episcopalem mensam spectantis pro

parte Dioecesis in Regno Borussico, salvis manentibus illis redditibus, quos percipit ex reliqua Dioecesis parte temporali Dominio Charissimi in Christo Filii nostri Francisci Austriae Imperatoris, atque Hungariae, et Bohemiae Regis Apostolici subjecta; quod vero ad Warmiensis Episcopalis mensae dotationem pertinet, firmis bonis, ac redditibus, quibus actu illa mensa gaudet, nihil in presens innovandum esse declaramus, sed aliquando ad aliarum in Regno Borussico mensarum normam Apostolica interveniente auctoritate fore conformandam.

Pari methodo Metropolitanae Ecclesiae Coloniensis Capitulum dotabitur in annua Summa pro Praeposito thalerorum Borussicorum bismille, pro Decano thalerorum item bismille, pro quolibet ex duobus primis Canonicis numerariis thalerorum mille biscentum, pro quolibet ex sequentibus sex Canonicis thalerorum mille, pro quolibet ex duobus postremis Canonicis thalerorum octingentorum, pro quolibet ex quatuor Canonicis Honorariis thalerorum centum, pro quolibet denu ex octo Vicariis, seu Praebendatis thalerorum biscentum.

In Archiepiscopali Ecclesia Gnesnensi pro Praeposito, et sex Canonicis quibus illud Capitulum imposterum constabit, ea reddituum quantitas conservabitur, qua Praepositus, et sex Capitulares Seniores actu fruuntur. In capitulo Archiepiscopalis Ecclesiae Posnaniensis redditus praedicto modo assignabuntur in annua Summa pro Praeposito thalerorum mille octingentorum, pro Decano thalerorum pariter mille octingentorum, pro quolibet ex duobus primis Canonicis thalerorum mille biscentum, pro quolibet ex quatuor sequentibus thalerorum mille, pro quolibet ex duobus postremis thalerorum octingentorum, pro quolibet ex quatuor Canonicis Honorariis thalerorum centum, et pro quolibet ex octo Vicariis, seu Praebendatis thalerorum biscentum.

In Capitulis Cathedralium Ecclesiarum tam Trevirensis, quam Paderbornensis pro Praeposito thalerorum mille quatuor centum, item pro Decano thalerorum mille quatuor centum, pro quolibet ex duobus primis Canonicis thalerorum mille, pro duobus sequentibus thalerorum noningentorum, pro quolibet ex quatuor Canonicis Honorariis thalerorum centum, et pro quolibet e sex Vicariis, seu Praebendatis thalerorum biscentum.

In Episcopali Ecclesia Monasteriensi, pro Praeposito thalerorum mille octingentorum, ac pariter pro Decano thalerorum mille octingentorum, pro quolibet ex duobus primis Canonicis thalerorum mille biscentum, pro quolibet ex sequentibus quatuor thalerorum mille, pro quolibet ex duobus postremis thalerorum octingentorum, pro quolibet ex quatuor Canonicis Honorariis thalerorum centum, et pro quolibet ex octo Vicariis, seu Praebendatis thalerorum biscentum.

In Ecclesia Cathedrali Culmensi pro Praeposito thalerorum mille biscentum, item pro Decano thalerorum mille biscentum, pro primo Canonico thalerorum mille, pro secundo thalerorum Noningentorum, pro quolibet ex reliquis sex, thalerorum octingentorum, pro quolibet e quatuor Canonicis Honorariis thalerorum centum, et pro quolibet e sex Vicariis, seu Praebendatis thalerorum biscentum.

In Cathedrali Ecclesia Wratislaviensi, pro Praeposito thalerorum bismille, pro Decano similiter thalerorum bismille, pro primo Canonico Praebendam Scholastici obtinente thalerorum mille quingentorum, pro quolibet e duobus sequentibus thalerorum mille centum, pro quolibet ex aliis septem thalerorum mille, pro quolibet e sex Canonicis Honorariis thalerorum centum, et pro quolibet ex octo Vicariis, seu Praebendatis thalerorum biscentum.

In Ecclesia vero Episcopali Warmiensi, nihil circa ejus Capituli dotationem, et formam ad praesens immutandum esse declaramus, reservata tamen nobis, et Romanis Pontificibus successoribus nostris facultate illos aliquando ad reliquarum Borussici Regni Ecclesiarum normam conformandi.

Aquisgranensis praeterea Ecclesia per nos in Collegiatum ut supra constituta Capitulum, constans ex unica Praepositi Dignitate, et sex Canonicatibus eandem annuorum reddituum Summam conservabit, qua actu gaudet.

Committimus pariter antedicto Josepho Episcopo Warmiensi, ut Clericorum Seminariis in qualibet Dioecesi opportune constabiliendis firma remanente possessione Bonorum, quae ad presens obtinent eas vel partiales, vel integras prout necessitas, atque utilitas postulabit Bonorum dotationes attribuet, quae ab adpromissa Serenissimi Borussiae Regis liberalitate suppeditabuntur.

Mandamus quoque eidem Josepho Episcopo, ut pro cujuslibet Antistitis decenti residentia, vel vetera Episcopia, si commode fieri poterit, vel alias

Domos ad id a praefato Rege in respectivis Civitatibus, atque etiam alteras Ruri, si facile possit concedendas: itemque Domos pro Dignitatibus Canonicis, et Vicariis, seu Praebendis, nec non pro Curia Ecclesiastica, pro Capitulo, et Archivo tribuendas opportune statuet, atque assignet.

Ad manutentionem vero Fabricarum tam Metropolitanarum, quam Cathedralium Ecclesiarum, comprehensis quoque suppressis Cathedralibus Corbejensi, et Aquisgranensi, atque ad divini cultus, ac Inservientium expensas ea Bona, ac redditus etiam in futurum conservabuntur, quae iis usibus jam sunt destinata, quaeque Serenissimus Rex diligentissime servaturum est pollicitus; et in casu extraordinariae necessitatis confidimus fore, ut rebus hisce de Thesauro Regio liberaliter provideatur.

Antedicto Josepho Episcopo praeterea injungimus, ut cujuslibet Archiepiscopalis, et Episcopalis Ecclesiae suffraganeatus assuetae congruae Dotationi provideat, utque singulis Archiepiscopis et Episcopis ad satisfaciendum expensis Vicariorum Generalium, et Curiae eam reddituum tribuat quantitatem, quae a praelaudato Borussiae Rege juxta liberalem, ac providam suam promissionem hisce titulis factam constituetur.

Et quoniam Serenissimus Borussiae Rex ultra Nobis pollicitus est se non modo Domos illas tam ad alendos emeritos senes, vel infirmos sacerdotes, quam ad coercendos Ecclesiasticos discolos, ubi existunt conservaturum, sed etiam novas, ubi desunt constibiturum, propterea ipsi Josepho Episcopo committimus, ut cognitis iis, quae de hac re statuerit praelaudatus Rex, auditisque respectivis Locorum Ordinariis, sub quorum jurisdictione hujusmodi Domus manere debent, omnia quae opus erunt circa memoratas Domos, earumque congruam dotationem disponat.

Cum vero in suppressis Corbejensi, et Aquisgranensi Cathedralibus Ecclesiis Sacra reperiantur suppellectilia ad Pontificalia in illis exercenda non amplius necessaria, facultatem praedicto Josepho Episcopo concedimus ea in usum, et commodum Archiepiscopalis Ecclesiae Coloniensis, si opus fuerit, sin minus in usum aliarum Regni Ecclesiarum, quae iis indigeant, libere valeat convertere.

Habita nunc ratione reddituum supramemoratis Archiepiscopalibus, et Episcopalibus Regni Borussiae Ecclesiis ad presens respective assignatorum in Libris Camerae Apostolicae prout sequitur, nempe Ecclesiam Coloniensem in Florenis Mille auri de Camera, Ecclesias invicem unitas Gnesnensem, et Poseniensem in Florenis paritur mille, Ecclesiam Wratislaviensem in Florenis mille centum sexaginta sex cum duobus tertiis, Ecclesiasque Trevirensensem, Monasteriensem, Paderbornensem, Culmensensem, et Warmiensem in Florenis sexcentum sexaginta sex cum duobus tertiis taxari mandamus.

Ut autem cuncta a Nobis ut supra disposita rite, feliciter, ac celeriter ad optatum exitum perducantur supradicto Josepho Episcopo Warmiensi harum Literarum Exequutori deputato omnes, et singulas ad hujusmodi effectum necessarias, et opportunas concedimus facultates, ut praevis respectivis dotationibus per Instrumenta in valida Regni forma exaranda ad uniuscujusque Ecclesiae cum suo Capitulo, sive erectionem, sive novam ordinationem, ac respectivi Territorii Dioecesanam circumscriptionem procedere, aliaque omnia ut supra ordinata peragere, atque statuere delegata sibi Apostolica auctoritate libere, et licite possit et valeat; atque ulterius ipsi Josepho Episcopo facultatem pariter tribuimus, ut ad plenum rerum omnium in Locis praesertim ab ejus residentia remotis executionem unam, seu plures, personam vel personas in simili vel alia Dignitate Ecclesiastica constitutam, vel constitutas subdelegare, et tam ipse Josephus, quam persona, vel personae ab eo sic subdeleganda, vel subdelegandae super quacumque oppositione, in actu executionis hujusmodi quomodolibet forsitan oritura, servatis tamen de jure servandis etiam definitive, et quacumque appellatione remota pronunciare libere item, ac licite possint, et valeant, ac quilibet eorum respective possit et valeat.

Eidem vero Josepho Episcopo expresse injungimus, ac mandamus ut exempla singulorum actorum tam per se, quam per ab eo Subdelegatos in praesentium Literarum executionem conficiendorum intra Quadrimestre ab expleta ipsarum executione ad hanc Apostolicam Sedem in authentica forma transmittat in Archivio Congregationis rebus Consistorialibus praepositae de more asservanda.

Praesentes autem Literas, et in eis contenta, ac statuta quaecumque, etiam ex eo quod quilibet in praemissis, vel in eorum aliquo jus, aut interesse habentes, vel quomodolibet etiam in futurum habere praetendentes cujusvis status, ordinis, conditionis, et praeeminentiae, ac etiam specifica, expressa, et

individua mentione digni sint, illis non consenserint, seu quod aliqui ex ipsis ad praemissa minime vocati, vel etiam nullimode, aut non satis auditi fuerint, sive ex alia qualibet etiam laesionis, vel alia juridica privilegiata, ac privilegiatissima causa, colore praetextu, et capite etiam in corpore juris clauso, nullo unquam tempore de subreptionis, vel obreptionis, aut nullitatis, vitio, seu intentionis Nostrae, vel interesse habentium consensus, aliove quolibet defectu quantumvis magno, inexcogitato, substantiali, ac substantialissimo, sive etiam ex eo quod in praemissis Solemnitates, et quaecumque alia forsitan servanda, et adimplenda minime servata, et adimpleta, seu causae propter quas praesentes emanaverint non sufficienter adductae, verificateae, et justificatae fuerint, notari, impugnari, aut alias infringi, suspendi, restringi, limitari, vel in controversiam vocari, seu adversus eas restitutionis in integrum apositionis oris, aut aliud quodcumque Juris, facti, vel justitiae remedium impetrari, aut sub quibusvis, contrariis constitutionibus, revocationibus, suspensionibus, limitationibus, decretis, aut declarationibus, generalibus vel specialibus quomodolibet factis minime posse comprehendendi, sed semper ab illis exceptas esse, et fore, ac tamquam ex Pontificiae Providentiae Officio certa scientia, et potestatis plenitudine Nostris factas, et emanatas, omniimoda firmitate perpetuo validas, et efficaces existere, et fore suosque plenarios et integros effectus sortiri, et obtinere, ac ab omnibus, ad quos spectat, et spectabit quomodolibet in futurum perpetuo, et inviolabiliter observari, ac supradictarum Ecclesiarum Episcopis, et Capitulis aliisque, quorum favorem praesentes Nostrae Literae concernunt perpetuis futuris temporibus plenissime suffragari debere, eosdemque super praemissis omnibus, et singulis, vel illorum causa ab aliquibus quavis auctoritate fungentibus quomodolibet molestari, perturbari, inquietari, vel impediri, neque ad probationem, seu verificationem quorumcumque in iisdem praesentibus narratorum nullatenus unquam teneri, neque ad id in iudicio, vel extra cogi, seu compelli posse, et si secus super his a quoquam quavis auctoritate scienter vel ignoranter contigerit attentari irritum, et prorsus inane esse, ac fore volumus, atque decernimus.

Non obstantibus de jure quaesito non tollendo de suppressionibus committendis ad partes vocatis quorum interest, aliisque Nostris, et Cancellariae Apostolicae regulis, nec non dictarum Ecclesiarum etiam confirmatione Apostolica, vel quavis firmitate alia roboratis statutis, et consuetudinibus etiam immemorabilibus privilegiis, quoque Indultis, et Concessionibus quamvis specifica, et individua mentione dignis, omnibusque et singulis apostolicis, ac in Synodalibus, Provincialibus, et Universalibus Conciliis editis specialibus, vel generalibus Constitutionibus, et ordinationibus, quibus omnibus, et singulis eorumque totis tenoribus, ac formis etiam si specialis, specifica, et individua mentio, seu quavis ali expressio habenda, aut aliqua alia exquisita forma ad hoc servanda foret illorum tenores, ac si de verbo, ad verbum, nihil penitus omisso, et forma in illis tradita, observata, inserti forent, praesentibus pro expressis habentes ad praemissorum omnium, et singulorum effectum latissime, et plenissime, ac specialiter, et expresse ex certa scientia, et potestatis plenitudine paribus derogamus, et derogatum esse declaramus, caeterisque contrariis quibuscumque.

Volumus praeterea, ut harum Literarum Nostrarum Transumptis etiam impressis, manu tamen alicujus Notarii Publici subscriptis, et Sigillo Personae in Ecclesiastica Dignitate constitutae munitis, eadem prorsus fides ubique adhibeatur, quae ipsis praesentibus adhiberetur si forent exhibitae vel ostensae.

Nulli ergo omnino hominum liceat hanc paginam Nostrae suppressionis, extinctionis, annulationis, restitutionis, erectionis, unionis, dismembrationis, disjunctionis, separationis, aggregationis, applicationis, circumscriptionis, concessionis, Indulti, enlargementis, assignationis, suppletionis, subjectionis, attributionis, statui, declarationis, commissionis, deputationis, Mandati, Decreti, derogationis, et voluntatis, infringere, vel ei ausu temerario contraire, si quis autem hoc attentare praesumpserit Indignationem Omnipotentis Dei, ac Beatorum Petri et Pauli Apostolorum ejus se noverit incursurum.

Datum Romae apud Sanctam Mariam Majorem Anno Incarnationis Dominicae millesimo octingentesimo vigesimo primo, decimo septimo Kalendas Augusti. Pontificatus Nostri Anno vigesimo secundo.

(Translation.)

Pius, Bishop, &c.

BEING greatly anxious for the salvation of souls and the increase of the Catholic religion, as required by the duties of our apostolic office, we are con-

stantly turning our attention to all those things which we know to be best fitted for administering the spiritual government of the faithful in Christ, and which may be for their advantage. And in this view we have for a long time turned our thoughts especially to those countries which are subject to the rule of the Most Serene Sovereign, Frederick William, King of Prussia, so that by the intervention of his aid and liberality, we may be empowered to settle the affairs of the Church there in the best way practicable.

And when we have carefully considered the condition of those countries, we have never ceased to deplore the great evils proceeding from the past disturbances, which have brought to the most miserable condition those churches which were once the most flourishing and wealthy of Germany, now reduced from their ancient splendour, and deprived of their means of support. And from this cause the utmost peril has arisen both to the Catholic religion and to the Catholics themselves.

And as the condition of the time will in no wise allow the churches of the great German nation to be brought back to their ancient state of splendour, we have used all our care and diligence, so that we may apply to these great evils such a remedy at least as may appear especially necessary and proper for preserving the Catholic faith and advancing the salvation of the souls of the faithful in Christ in those countries.

Our wishes in this respect have been very greatly seconded by the aforesaid King of Prussia, whom we have found and gratefully acknowledged to be animated by the most benevolent wishes towards his very numerous Catholic subjects who principally inhabit the Rhenish Provinces; so that at length we are enabled to bring everything to a happy and prosperous conclusion, and we can now constitute the churches anew, and divide the dioceses of the Kingdom of Prussia according to the situation of places and the convenience of the inhabitants, and shall then be able to provide all places which require it, with their own fit and worthy pastors.

Therefore, considering as expressed and inserted word for word all that which concerns the extinction, or mutation, or re-ordination of the churches and chapters to be hereinafter named, and of their former peculiar rights and prerogatives, and the dismembering and reconstructing the respective dioceses, as well as the annulling of all metropolitan rights; and further, fully supplying the consent of all who are interested in the matter, from certain knowledge, with mature deliberation, and in the fulness of apostolic power, with previous entire suppression, extinction, and annulment of the vacant episcopal see of Aix-la-Chapelle, its cathedral chapter being from this time reduced as below to the state of a collegiate church, and of the other episcopal church and cathedral chapter of Corvei, and of the monastery of the Abbey of Neuenzell, and of another monastery of the Abbey of Oliva; that is to say, from the time when it shall be vacant by demise of the present venerable Joseph von Hohenzollern, Bishop of Ermland, Abbot of Oliva; and also graciously assenting to the general desire of Germany, added to the royal recommendation, for the glory of Almighty God, and in honour of St. Peter, the chief of the Apostles, we now restore to the rank of a metropolitan church, the church of Cologne, already second to none in antiquity and splendour among the churches of Germany, dedicated to the aforesaid Prince of the Apostles; and we determine that it shall so perpetually remain; and we assign to it as suffragans the episcopal churches of Treves, Munster, and Paderborn.

We also raise to the dignity of a metropolitan see the episcopal church of Posen, dedicated to St. Peter and St. Paul the Apostles; and we do unite the same in perpetuity with equal dignity to the other archiepiscopal church of Gnesen, dedicated to St. Adalbert, now vacant by the spontaneous resignation made into our hands and accepted by us, of the venerable brother, Ignatius Racinski, the last archbishop of the same. And we wholly commit the care, government, and administration of the said church of Gnesen, to the venerable brother, Timotheus Gorszinski, now Bishop of Posen; and we constitute and depute him Archbishop of Gnesen and Posen, and order him to be, and to be called always, Archbishop of Gnesen and Posen; and we assign the episcopal church of Culm as a suffragan to his metropolitan authority.

And we declare the episcopal churches of Breslau and Ermland to be always immediately dependent on this holy see, and that they shall so remain.

And we do grant and confirm to all the bishops and archbishops all and

singular the rights, advantages, prerogatives, and privileges which are of the lawful competency of the other archbishops and bishops of these parts.

With respect to the chapter of the Metropolitan Church of Cologne, we do erect therein two dignities, viz., one provostship, which shall be the highest under the archbishop, and one deanery, with ten regular canonries, and four honorary canonries, and besides, eight vicariats or prebends.

The chapter of the archiepiscopal church of Gnesen shall in future consist of only one dignity, that of provost, with six canonries; the chapter of the other archiepiscopal church, that of Posen, shall have two dignities, those of provost and dean, eight regular canonries, and four other honorary canonries, as well as eight vicariats or prebends.

The chapters of the churches of Treves and Paderborn shall each consist of two dignities, one of provost, the other of dean, of eight regular canonries and four honorary canonries, and of six vicariats or prebends.

The chapter of the cathedral church of Munster shall consist of two dignities, the first of provost, the second of dean; there shall be eight regular canonries, four honorary canonries, and eight vicariats or prebends.

The chapter of the cathedral church of Culm shall comprise two dignities, the provostship and the deanery, eight regular canonries, four honorary canonries, and six vicariats or prebends.

The chapter of the cathedral church of Breslau shall consist of two dignities, the provostship and the deanery, ten regular canonries, the first of which shall have a school prebend annexed to it, six honorary canonries, and eight vicariats or prebends.

Lastly, as to the cathedral church of Ermland, the chapter of its cathedral shall remain in its present state, reserving, however, to us and the Roman Pontiff's our successors, the power of constituting that chapter according to that of the other churches of Prussia.

Moreover, in all the above churches, both archiepiscopal and episcopal, the cure of souls of the parishioners shall be habitually in the chapter, and shall actually be exercised by one of the capitulars for this purpose expressly to be appointed, and to be approved by the ordinary after examination, according to the sacred canons, with the aid of the vicars; and in each of the said chapters two fit canons shall be regularly deputed by the ordinary, one of whom shall faithfully discharge the duties of a confessor, the other that of a divine, expounding the Holy Scripture on stated days to the people.

Access to the choir and to the other ecclesiastical functions shall be open to all the honorary canons of the aforesaid chapters, equally with the resident canons; but we declare them free from the obligation of personal residence and service of the choir; and for the greater honour and splendour of the aforesaid churches, we do expressly confirm, and so far as may be necessary, we again grant and bestow upon the said dignities and canons, the liberty of using the same distinctions which they have before enjoyed.

In like manner we do give and grant in perpetuity to each of the above-mentioned cathedral chapters, now and in future that they, in chapter assembled, may issue and declare, and interpret, and reform, and alter, any statutes, ordinances, chapters, and decrees, so that they be lawful and proper, and in accordance with the sacred Canons and Apostolic Constitutions, and decrees of the Council of Trent; and also may make and freely and lawfully issue other new ones, to be observed inviolably by those whom it concerns or may concern, under penalties to be determined against those refusing to follow them, under the guidance, inspection, and approbation of their respective archbishops and bishops, for the purpose of a new daily service of the said archiepiscopal and episcopal churches and their choirs, better suited to circumstances, and for the prosperous and happy rule, government and direction of things and rights, both spiritual and temporal, and for the support of the burdens respectively bearing upon them, and for the levying and dividing the daily distributions and other emoluments, and for inflicting the penalties which may be incurred by those not attending divine service; and for taking notice of the presence and absence of parties, and for observing rites and ceremonies, and for any other matters necessary and proper in the aforesaid cases.

The number of canonical, vicarial, and prebendal dignities, both in metropolitan and cathedral chapters, being determined as above, in order that the same may be constituted both for this first time and for the future, we deter-

mine that every person must, in order to obtain hereafter any dignities and canonries, be endowed with the undermentioned qualifications; that is to say, he shall have received the higher holy orders, and shall have done good service in the Church at least five years, or shall have served a cure of souls as incumbent or assistant, or acted as professor of theology or of the sacred canons, or served any bishop in the Kingdom of Prussia in the office of diocesan administration; or, finally, shall have regularly obtained a doctorate of the highest grade in sacred theology or in the canon law; the effect of this last condition, however, in consequence of just and important causes, remaining suspended for ten years, to be computed from the date of these presents. And we determine that ecclesiastical persons of every condition shall enjoy an equal right of obtaining dignities and canonries. And we do also decree that a canonical prebend shall be fixed upon in the cathedral church of Munster, and another in that of Breslau, and that they shall always be bestowed by the party to whom it shall, in the alternation of months, appertain, upon professors of the universities in these two cities respectively, who shall have the qualifications required by the canons. And we further decree, that the provost of the parish church of St. Hedwig, in the city of Berlin, and the ecclesiastical sub-dean (*Decanus commissarius*) in the county of Glatz, both for the time being, be admitted among the honorary canons of the cathedral chapter of Breslau, so that they may enjoy the same rights as these, and shall hold the place and order which shall be shown to belong to them, according to the period of their nomination respectively. Some also of the honorary canons in each of the above-named chapters shall be selected from the number of archpriests who exercise in a praiseworthy manner the cure of souls in the respective dioceses.

And in regard to the new arrangement of the aforesaid chapters, which is to be carried into effect this first time with all convenient dispatch, we do empower the hereinbelow named executor of these our Letters, whenever dignities and canonries, as well as vicariats or prebends, shall be actually vacant in any church, to confer the same upon worthy and fit ecclesiastical persons, so as to make up the number wanting equal to what is stated above by the especial apostolical power delegated to him, and in the name of this Holy See; but so that those who shall be by him appointed to these dignities and canonries shall be required to obtain from our Datary and to procure the issue of apostolic letters of the new appointment and confirmation, within six months from that period. And if it shall happen that in any of the existing metropolitan or cathedral churches in the Kingdom of Prussia, the dignitaries, canons, and vicars or prebendaries now living, being lawfully and canonically instituted, shall exceed the numbers respectively as hereinbefore determined by us, then the aforesaid Apostolic executor having summoned and heard the interested parties, shall compound the matter through voluntary abdication of their rights by themselves or some of them, providing for them suitable pensions for life, as promised by His Most Serene Majesty, for the maintenance of those retiring; or else, in case there should be no abdication of this nature, or they should not be in sufficient number, the persons who shall have most recently obtained possession of the dignities, canonries, and vicariats, in number exceeding that which is determined in our settlement above given, shall, if they reside at their churches, continue to be capitulars and vicars respectively, and shall retain the rights and prerogatives which they now enjoy, and receive their revenues to the same amount as now they do; but when the benefices obtained by them shall in any way become vacant, they shall not be conferred upon any other persons, but must be understood now to be from that time suppressed and extinct, so that thereafter the number determined as above, may be strictly observed in the respective chapters. And if the canons in any chapter now receive smaller revenues than what are assigned for those who shall in future be in their places, they shall not obtain any increase of revenue, unless the said increased revenue be granted to them specifically by the Apostolic executor.

And for the future, whenever vacations shall take place, the office of provost, which is next in dignity to that of archbishop or bishop in the above-named archiepiscopal and episcopal churches, and in the church of Aix-la-Chapelle, to be made a collegiate church as stated below, and also the canonries which may become vacant in the months of January, March, May, July, September, and November, in the said churches, shall be confirmed by us and the Roman Pontiffs our successors, as it has been hitherto done in the chapter of Breslau;

but the deanships in the said metropolitan and cathedral churches, and the canonries, as well in them as in the said church of Aix-la-Chapelle to be made a collegiate church, which may become vacant in the other six months, shall be conferred by the respective archbishop and bishops. The vicariats or prebends in the aforesaid churches, in whatever month they may be vacant, we relinquish to the collation of the respective archbishops and bishops.

And lastly, considering that we shall perform an act very pleasing to Germany and most acceptable to the said King of Prussia, if, the right of election in the churches beyond the Rhine being retained and confirmed and those on this side the Rhine being annulled by the Apostolic Provisions of the year 1801, we shall now restore the said right of election in the dioceses on this side the Rhine, subject to the temporal dominion of the said King—that is to say, in the chapters of the churches of Cologne, Treves, Breslau, Paderborn, and Munster, belonging to Germany. We do decree and determine, all other considerations and questions, as well as diversities of election and postulation, and of the necessity for noble birth being done away with, that power be granted to the said chapters, after they shall have been constituted and ordained as above directed, that, in every vacation of their sees by the death of their prelates *extra Romanam Curiam*, or by the resignation and abdication of those sees (except, however, in the present case of the vacations of the Bishops of Cologne and Treves), within the space of three months, the dignitaries and canons in chapter assembled may, in accordance with the regulations of the canons, elect new prelates from among all the ecclesiastical persons inhabiting the Kingdom of Prussia, so that they be worthy and fit, according to canonical sanction, all things being done in the forms required by the holy canons. And in elections of this nature, the canons, as well regular as honorary, shall have the right of suffrage, including also those who are retained beyond the number of capitulars determined by the present re-arrangement, so far as they reside in the said chapters.

And making no innovations in the chapters of the episcopal churches of Ermland and Culm, or in the archiepiscopal churches of Gnesen and Posen, which are to be perpetually united, we do only direct that the chapters of Gnesen and Posen shall proceed conjointly to the election of an archbishop. And in respect to the vacant episcopal church of Breslau, we do grant especial power to the five dignitaries now being therein—that is to say, provost, dean, archdeacon, scholasticus, and custos, and to the eight resident and six honorary canons who now represent the chapter of that church, that they can and may now for this first time also, proceed to the canonical election of a new bishop in the manner and form aforesaid.

Moreover, the minutes of every election of this nature, drawn up in an authentic form, shall be transmitted regularly to the Holy See. And if the latter admit the election to have taken place canonically, and if it shall be satisfied of the fitness of the person elected, by the diligent inquiries which the Roman Pontiff shall entrust in every case some archbishop or bishop residing within the Kingdom of Prussia to make, in the form of instruction issued by order of Urban VIII, of blessed memory, our predecessor, every such election shall be confirmed by Apostolic letters, according to the existing manner, by us and the Roman Pontiffs our successors.

Moreover, we determine that there shall be in every city, both archiepiscopal and episcopal, a spiritual seminary, to be preserved, if existing, or else to be newly erected, in which a number of clerical persons shall be maintained, and also taught and educated according to the decrees of the sacred Council of Trent, such as may be suitable to the size and necessity of the respective dioceses, and as may be determined to be proper by the executor of these present Letters. We leave it, however, to the judgment and wisdom of the Archbishop of Gnesen and Posen, whether to establish a separate and distinct seminary in each city, or one only in the city of Posen, because it has larger buildings, for the clergy of the two dioceses, as may best conduce to the advantage of the churches themselves.

After previous division, separation, and alteration of certain places and parishes, to be taken out of the jurisdiction of the former ordinaries, for the purpose of annexing and incorporating them anew with the undermentioned dioceses, as it appears most proper in the Lord, and having heard our venerable brothers, their Eminences the Cardinals Heads of the Congregation de Propaganda

Fide, wishing to proceed to the new delineation of the dioceses, so that all questions as to their distinct limits may be avoided in respect to the exercise of spiritual jurisdiction, we, in the fulness of our Apostolic power, do determine, decree, and settle the distribution and division of the same in the following manner, that is to say :

[Here follows the territorial delineation of the Dioceses of Cologne, Treves, Munster, Paderborn, Gnesen and Posen, Culm, Breslau, and Ermland.]

We do deliver over the aforesaid cities and churches, archiepiscopal and episcopal, together with the parishes and places assigned as dioceses to the respective churches, and the inhabitants thereof of both sexes, clerical and lay, to the said churches and prelates for ever, as city, territory, diocese, clergy, and people respectively ; and we do entirely subject them in spiritual matters, so that (after the above-named Joseph, Bishop of Ermland, shall have duly carried these present Letters into execution, and when, in regard to certain provisions *nunc pro tunc* made by us, the time shall have come for their execution as above determined) all prelates now instituted, or who shall in future be instituted by Apostolic authority, may by themselves, or by others in their name, freely take, and when taken, retain, the true, real, actual, and corporal possession of the government, administration, and of every kind of right, as diocesan and ordinary in the aforesaid cities and their churches and dioceses, as also of the estates and other revenues for the establishments of the same, as hereinbefore assigned by virtue of Apostolic letters of canonical institution ; and, therefore, so soon as they shall have taken possession in the places now assigned by this our decree to each diocese, and shall have actually obtained the government thereof, all jurisdiction, under whatever title, of ancient ordinaries, or vicars, or administrators, shall cease, and all the powers which they had in the parts and places taken from their jurisdiction shall be of no more force and effect.

For we, with the object of benefiting the respective dioceses, do prescribe and enjoin, that all and every document respecting churches, dioceses, parishes, and places separated as above and annexed anew, be taken out of the former chanceries, and delivered over in proper form to the chanceries of the dioceses to which they are to be annexed, and that they be preserved in the same for ever.

The present venerable brothers, the Archbishops of Prague and Olmütz for the time being, and the Bishops of Königingrätz and Leutmeritz, will continue to exercise in future the same spiritual jurisdiction in the Kingdom of Prussia, which they have heretofore exercised.

But the chapels of ease (*filiales*) and the parochial churches and their district churches (*fractiones*) not included in this our decree, and being out of the Kingdom of Prussia, we do separate from the mother churches and parish churches situated within the said kingdom, and command that they be assigned by the next ordinaries to the mother churches and parochial churches of the provinces to which they are subject in temporal matters ; and in like manner we decree that it be done in respect of the parishes and chapels of ease, with their district churches, situated within the Kingdom of Prussia, and depending on mother churches situated out of the said kingdom, reserving to ourselves and to the Apostolic See, the care of providing spiritual government for other parts and places, if it should be required.

Whereas, in view of the extent of the dioceses of the Kingdom of Prussia, and the large number of diocesans, it would be very difficult for the archbishops and bishops to administer the sacrament of confirmation to the faithful in Christ, and to exercise other priestly offices without the aid and assistance of another bishop, therefore, we, confirming the suffraganships in those dioceses of the Kingdom of Prussia in which it is already existing, do restore and constitute them anew in the dioceses of Cologne and Treves ; and, therefore, an archbishop or bishop shall solicit us and the Roman Pontiffs our successors, according to the manner prescribed, that an ecclesiastical person possessing the required qualifications should be appointed to the office of a suffragan, and should be instituted after canonical process, preserving the usual forms of titular episcopacy *in partibus infidelium*, with the assignment of a suitable stipend.

And whereas we have thought proper to restore the celebrated most ancient archiepiscopal see of Cologne, rather than retain the episcopal see of Aix-la-Chapelle, which was only twenty years ago raised up as it were in its

place ; being, however, of opinion that some consideration is due to the city of Aix-la-Chapelle, and aware of the wishes of His Majesty the King of Prussia in that respect, we do decree and determine, that the church which was a cathedral under the title of the Blessed Virgin Mary, be changed to a collegiate church, and that its collegiate chapter consist of only one dignity, of provost and six canons, the collation to which provostship shall always be in and belong to the Apostolic Sec, and the collation to the canonries alternately to the Apostolic See and the Archbishop of Cologne : And we do grant and allow to these capitulars, of our peculiar favour, the liberty to wear a large silk robe, laced with silk violet-coloured cords, with ermine fur during the winter, and a tunic and rochet during the summer ; and further we give and bestow to the same the power of making statutes in the manner and form as clearly stated above in respect to the chapters of cathedral churches.

We do therefore expressly nominate, elect, constitute, and depute the venerable brother, Joseph, Bishop of Ermland, to be executor of these our present Letters, in whose wisdom, learning, and integrity we have the utmost confidence in the Lord ; and we entrust unto him to carry out as prescribed, all and singular the above arrangements ordered by us, and likewise to take care forthwith to supply the vacant churches with fit pastors, which is of the first necessity, and to bring all the affairs of the Church into a better condition and order ; and to provide a proper and stated endowment for any churches requiring it. The necessary means for this purpose will be supplied most beneficently and liberally by His aforesaid Majesty the King of Prussia, who has openly declared his magnanimous, princely sentiments, and his very kind intentions towards the Catholics, subjects of his Government, in respect to arrangements of all the dioceses of the Kingdom of Prussia, without any delay, and who has proposed to establish and provide for the same in the form and manner following :

As many ground-rents (*census*) shall be imposed by royal authority upon the public forests of the kingdom to be specifically named, as there are dioceses to be endowed, and in such amount respectively that an annual income may be received from them wholly free from burdens of any kind whatever, which may be sufficient for the entire dotation of the said dioceses, if they have none at present, or to complete a dotation for the same, if they now possess any portion of their estates ; so that each diocese may have in future an annual revenue which shall be fully equivalent to the revenues appointed for the archiepiscopal or episcopal expenses, for the chapter, and for the diocesan and suffragan seminary, to the amount which shall be stated below ; and the property in those rents shall be conferred upon each church by instruments to be drawn in the legal and valid form of the kingdom, and to be signed by His Majesty aforesaid. And because the forests aforesaid, as also all the public lands of the Kingdom of Prussia, in consequence of debts incurred by the Government on account of the war, are burthened with mortgages, and therefore no ground-rent could, if credit is to be maintained, be placed upon them, or income received from them, until the debts shall be diminished through payments made by Government to the mortgagees, and until a sufficient portion of the forests shall be thus liberated from mortgage, and because, according to the securities given by His Majesty to the public creditors, it is to be determined by the authorities in the year 1833, what lands are to be free from the obligation, and what are to remain bound, we do therefore decree that the aforesaid rents shall be imposed upon the above-mentioned forests, in the said year 1833, or at an earlier date, if the forests aforesaid shall be sooner liberated from mortgage to the amount at least of the rents to be imposed ; and, therefore, that at least immediately after the year 1833, the amount of the said rents shall be received by each diocese ; but that from this time to the year 1833 inclusive, or to the time of the earlier imposition of the said rents, a sum of money equivalent to the produce of the rents shall be paid to every diocese by the provincial treasuries. And lest in any way it might be feared that the money payment should be continued beyond the year 1833, by the intervention of the authorities who might prevent the rents from being imposed, on the plea that the amount of debt has not been sufficiently diminished, the said King has spontaneously promised, and bound himself formally, that if such a thing should beyond all expectation take place, he would take care that so much land should be purchased at the Royal charge, to be given over to the several churches in full right of property, as may be necessary to produce a revenue equal to the annual amounts which would have been raised

from the ground-rents, if such hindrance had not supervened. And whereas His Majesty has promised to make all these things sure by letters-patent (*diplomata*), in the valid form of the kingdom, to be signed by himself, so that they may be of full and entire effect at the proper time, the aforesaid Bishop Joseph shall therefore deliver such letters-patent to each of the churches, to be preserved in their respective archives.

And these revenues, according to the Royal promise, deducting charges, shall form annual endowments to the amounts following, viz.: for the Archbishop of Cologne, and for the Archbishop of Gnesen and Posen, 12,000 Prussian thalers; for the Bishops of Treves, Munster, Paderborn, and Culm, 8000 thalers of the same money; and the Bishop of Breslau, 12,000 thalers of the same money, besides the rent from the lands of Würben, belonging to his episcopal revenue for the portion of his diocese in the Kingdom of Prussia, and those rents remaining intact which he received from the other portion of his diocese, subject to the temporal government of our dear son in Christ, Francis, Emperor of Austria and Apostolic King of Hungary and Bohemia; and in respect to the dotation for the expenses of the Bishop of Ermland, we do declare that the estates and rents now enjoyed by that bishopric remaining untouched, nothing shall be for the present altered therein; but that at some future time, through the intervention of Apostolic authority, it will be altered in conformity with the other episcopal sees in the Kingdom of Prussia.

In like manner, the chapter of the metropolitan church of Cologne shall be endowed in an annual amount of 2000 thalers for the provost; for the dean also 2000 thalers; for each of the two first regular canons, 1200 thalers; for each of the six following canons, 1000 thalers; for each of the last two canons, 800 thalers; for each of the four honorary canons, 100 thalers; and, lastly, for each of the eight vicars or prebendaries, 200 thalers.

In the archiepiscopal church of Gnesen, the same amount of revenue shall be reserved for the provost and the six canons of which that chapter shall henceforth consist, as the provost and the six senior capitulars now enjoy. In the chapter of the archiepiscopal church of Posen, the revenues are assigned in the manner aforesaid in annual sums, to the provost, 1800 thalers; to the dean, likewise 1800 thalers; to each of the two first canons, 1200 thalers; to each of the following four, 1000 thalers; to each of the last two, 800 thalers; to each of the four honorary canons, 100 thalers; and to each of the eight vicars or prebendaries, 200 thalers.

In the chapters of the cathedral churches of Treves and Paderborn, to the provost, 1400 thalers; to the dean, also 1400 thalers; to each of the two first canons, 1000 thalers; to each of the two following, 900 thalers; to each of the four honorary canons, 100 thalers; and to each of the six vicars or prebendaries, 200 thalers.

In the episcopal church of Munster, to the provost, 1800 thalers; and to the dean, likewise 1800 thalers; to each of the first two canons, 1200 thalers; to each of the four next, 1000 thalers; to each of the two last, 800 thalers; to each of the four honorary canons, 100 thalers; and to each of the eight vicars or prebendaries, 200 thalers.

In the cathedral church of Culm, to the provost, 1200 thalers; to the dean, also 1200 thalers; to the first canon, 1000 thalers; to the second, 900 thalers; to each of the remaining six, 800 thalers; to each of the four honorary canons, 100 thalers; and to each of the six vicars or prebendaries, 200 thalers.

In the cathedral church of Breslau, to the provost, 2000 thalers; to the dean, likewise 2000 thalers; to the first canon, having a scholastic prebend, 1500 thalers; to each of the two following, 1100 thalers; to each of the other seven, 1000 thalers; to each of the six honorary canons, 100 thalers; and to each of the eight vicars or prebendaries, 200 thalers.

With respect to the cathedral church of Ermland, we declare that nothing relating to the endowment and form of its chapter shall be at present changed; but there is nevertheless reserved to us and to the Roman Pontiff's our successors, the power of hereafter regulating them upon the model of the other churches of the Kingdom of Prussia.

Moreover, the church of Aix-la-Chapelle, constituted by us as above, a collegiate chapter, consisting of the single dignitary of provost with six canonries, shall retain the same amount of annual revenues as it at present enjoys.

We likewise direct the aforesaid Joseph, Bishop of Ermland, to assign to the

clerical seminaries which shall when required be established in each diocese, in addition to any estates which they may possess, a dotation either entire or in part, according as necessity and utility may require, out of the funds which will be supplied by the promised liberality of the King of Prussia.

We also command the said Bishop Joseph, that he appoint and assign for the suitable residence of each archbishop and bishop, either an ancient episcopal palace, if such can be conveniently done, or other house, in their respective cities, and also another in the country, if such can be easily conceded for that purpose by the before-mentioned King; and that he appoint and assign as wanted, houses for the dignitaries, canons, and vicars or prebendaries, and for the Ecclesiastical Court, Chapter, and Record Office.

But for the maintenance of the buildings both of the metropolitan and episcopal churches, including also the suppressed cathedrals of Corvei and Aix-la-Chapelle, and for the expenses of divine service and of the ministers, those properties and revenues shall be preserved in future which are now destined for those purposes, and which His Majesty the King has promised shall be carefully preserved; and in case of extraordinary necessity, we trust that for these matters provision will be liberally made from the Royal treasury.

And we moreover enjoin the aforesaid Bishop Joseph, that he provide the suffraganship of each archiepiscopal and episcopal church with the dotation of the ordinary stipend, and that he assign to each of the archbishops and bishops for the expenses of the vicars-general and courts, such amount of revenue as the above named King of Prussia according to his liberal and careful promise shall contribute for this purpose.

And whereas His Majesty the King of Prussia has further promised to us, that those houses which are appropriated to the support of well-deserving aged or infirm priests, as well as those which are devoted to the correction of ill-advised ecclesiastics, shall not only be maintained where they exist, but that new ones shall also be built where they are required, we do therefore direct the said Bishop Joseph, that having ascertained the intentions of His Majesty aforesaid upon this matter, and having heard the respective ordinaries of the places under whose jurisdiction these houses are to remain, he will do all that shall be required in respect of the aforesaid houses and the suitable endowment thereof.

And as in the suppressed cathedral churches of Corvei and Aix-la-Chapelle, holy utensils are found no longer required for Pontifical uses, we grant unto the aforesaid Bishop Joseph power to convert them freely to the use and benefit of the cathedral church of Cologne, if they be required; and if not, to the use of those other churches of the kingdom in which they may be wanted.

Having now regard to the revenues respectively assigned to the above-named archiepiscopal and episcopal churches of the Kingdom of Prussia, we command that they be rated in the books of the Apostolical Chamber, as follows: To wit, the Church of Cologne 1000 florins, *auri de camera*; the united Churches of Gnesen and Posen likewise 1000 florins; the Church of Breslau 1166 $\frac{2}{3}$ florins; the Churches of Treves, Munster, Paderborn, Culm, and Ermland, 666 $\frac{2}{3}$ florins.

And in order that all which has been directed by us, as above, may be conducted rightly, happily, and quickly to the desired conclusion, we do grant unto the above-named Joseph, Bishop of Ermland, the deputed executor of these Letters, all and singular the powers necessary and meet for carrying them into effect, so that he may, by the Apostolical authority granted to him, be fully competent and able, after the respective endowments shall be completed under instruments to be drawn up in the legal form of the kingdom, to proceed to the erection or new ordination of all the churches with their chapters, and to the delineation of boundaries of the territories of the respective dioceses, and to perform and settle all things ordered as above; and further, we do grant power unto the said Bishop Joseph, that he may, for the full execution of all things, especially such as are to be done at a distance from his place of residence, delegate one or more persons of the same or other ecclesiastical dignity, and that both he, the said Joseph, and the person or persons delegated by him for the purpose, may and shall freely and lawfully, and any one of them respectively may and shall freely and lawfully decide definitively and without any appeal, upon all opposition whatever which may arise in any way in carrying their provisions into effect, observing always those considerations which should legally be observed.

And we do expressly enjoin and command the said Bishop Joseph, that he shall transmit in authentic form to this Apostolic See, copies of all documents which may be issued by himself or by his sub-delegates, in the execution of these Letters, within four months after their completion, that they may be preserved in the archives of the Congregation ruling Consistorial matters.

And we do will and determine, that these present Letters, together with all that which is contained and prescribed in them, shall not,—whether because any one having a right or interest in the premises or in any of them, or who shall in future claim so to have, from any cause whatever, of any state, order, condition, or pre-eminence he may be, or because any one worthy of specific, express or individual mention, may not consent to the same, or else because any of those persons were not called to the premises, or were not at all or not sufficiently heard, or from any other cause, colour or pretext of injury, or from any other juridical privileged or most privileged cause, colour or pretext, or clause in the canon law, from no default at any time by commission or omission, or nullity, or defect of our intention, or of consent of interested parties, or by any defect whatever, however great, unexpected, substantial or most substantial; or else because any solemn forms or other matters which perhaps should have been observed and fulfilled in the premises, were not observed and fulfilled, or because the reasons why these presents were issued were not sufficiently adduced, verified and justified,—be censured or impugned, or otherwise infringed or suspended, or restrained, or limited, or called into dispute; nor can any legal remedy for restoration to the former condition or for right of speaking, be obtained against them, nor any other remedy whatever of right, fact or law; nor shall they be comprehended under any contrary constitutions, revocations, suspensions, limitations, decrees or declarations, general or special, however made, but they shall always be exempted from such; and they shall perpetually be valid and in force with all cogency, as made by and emanating from our Pontifical wisdom, certain knowledge and fulness of power; and they shall have and obtain full and entire effect, and shall be observed perpetually and inviolably in future by those to whom it appertains or shall appertain in any way whatever; and they shall most fully benefit to all future times, the bishops and chapters of the aforesaid churches, and the other parties for whose advantage the present Letters are made; and we will that the same parties in respect to all and everything in the premises, or because thereof, shall not in any way be molested, or disturbed, or disquieted, or hindered by any persons invested with any authority, nor at any time be held to proof or verification of any matters whatever stated in these Presents, nor be compelled or urged to the same judicially or extrajudicially; and if it should happen that anything were attempted, either knowingly or unknowingly, against them by any authority, the same is and shall be void and utterly null.

Notwithstanding the rule “*De jure quæsito non tollendo*,” and “*De suppressionis committendis ad partes vocatis quorum interest*,” and our other regulations, and those of the Apostolic Chancery, and the statutes of the said churches, though strengthened by Apostolic confirmation, or any other corroboration; and notwithstanding ancient usages and privileges, and grants and concessions, however worthy of specific and individual mention, and all and singular the special and general Apostolic constitutions and ordinances, and those issued in synodal, provincial, and universal Councils, all and each of these in their whole tenor and form, as though especial, specific and individual mention, or any other expression were made thereof, or any other form sought to express this tenor and form, and as if they were inserted word for word, without any omission whatever, and all the forms observed, We do hereby, for the effect of all and each of the premises, broadly and fully, and especially, and expressly, from the same certain knowledge and plenitude of power, repeal and declare to be repealed, as well as all other things to the contrary.

We further will that to the printed copies of these our Letters, but signed by the hand of some notary public, and sealed with the seal of some persons of ecclesiastical dignity, the same trust shall be everywhere given, precisely as would be given to these Presents, if they were shown or exhibited.

It is not permitted to any person to infringe, or by rash daring to oppose, this our Brief of suppression, extinction, annulment, restitution, erection, annexation, dismembering, disjoining, separation, aggregation, application, circumscription, concession, indulgence, grant, assignment, completion, subjection,

attribution, state, declaration, commission, deputation, mandate, decree, repeal, and resolution ; and if any one should presume to attempt it, let him know that he will incur the indignation of God Almighty and of the blessed Apostles Peter and Paul.

Dated at Rome, at Santa Maria Maggiore, A.D. 1821, XVII Kal. Aug. (July 16), the twenty-second year of our Pontificate.

Inclosure 4 in No. 18.

The King of Prussia's Cabinet Order sanctioning the Papal Bull "De salute animarum."

(Translation.)

Berlin, August 23, 1821.

WHEREAS the Papal bull submitted to me by you, which begins with the words "De salute animarum," and is dated Rome, the 16th of July of this year (xvii. cal. Aug.), agrees in its essential contents with that arrangement which was entered into on the 25th of March of this year, respecting the establishment, endowment, and limits of the archbishoprics and bishoprics of the Catholic Church in the State, and of all subjects having reference thereto, and which was already sanctioned by me on the 9th of June of this year: I will hereby give, on your proposal, also to the essential contents of this bull, namely, to what concerns the enactments respecting things having reference to the before-mentioned subjects, my royal approval and sanction, by virtue of which these enactments are to be observed as the binding statute of the Catholic Church of the State, by all those whom it concerns.

This my royal approval and sanction I give in virtue of my sovereign rights, and without prejudice to these rights, as well as to all my subjects of the Evangelical church of the State.

Accordingly this bull is to be printed in the Collection of Laws, and the Ministry of Ecclesiastical Affairs is to take care of its execution.

(Signed) FREDERIC WILLIAM.

To the State Chancellor Prince von Hardenberg.

Inclosure 5 in No. 18.

Brief of Pius VII.

Dilectis Filiis Decano et Canonicis Ecclesiarum Archiepiscopalis Coloniensis, nec non Episcopatum Vratislaviensis, Trevirensis, Monasteriensis, et Paderbornensis.

Pius PP. VII.

DILECTI filii, &c. ; quod de fidelium isthuc de gentium salute vehementer sollicite tantopere exoptavimus, omnique studio curavimus, id demum feliciter factum gratulamur, eo bene juvante qui auctor est pacis, et pater totius consolationis. Post tot enim discrimina temporum acerbissimorum, episcopales sedes in regno iste quo tot nominibus commendabantur, instaurare ac pro dominici gregis commoditate apte potuimus ordinare, sed apprime cum serenissimo Rege vestro conciliata, qui animo quo est magno et excelso, in censu earumdem liberaliter attribuendo, studiis nostris mirifice favit. Universam quidem rationem rei probe cognoscetis ex Apostolicis litteris, quas de ea sub plumba hac ipsa die expediri mandavimus, nec dubitamus quin non mediocrem consolationem sitis percepturi quod et plures istius regni ecclesias e squalore in quo jacuerant revocatas, et illustre de antistitum electione privilegium vobis perstare animadvertetis, quod certe cum primis et vestra et Germania vota impensissime efflagitabant.

Hac tamen speciatim occasione vos alloqui volumus per epistolam, nedum ut gratulatione communi Deo benedicamus, sed ut in gravissimo electionum negotio, vestram religionem, prudentiam, integritatem vehementissime excitemus. Sint vobis ob oculos (dicimus animi sensu quo

maxime possumus sollicito) sint vobis ob oculos jugiter quæ Tridentina Synodus disertissime præscripsit iis omnibus qui ad promotionem præficendorum quacumque ratione operam suam præstant. (Sess. 24, cap i, de Ref.; et sess. 6 cap. i, de Ref.) De Omnipotentis Dei gloria res est, de bono animarum de æterna salute vestra. Non alium id circo finem in suffragatione habere vos oportet, nisi ut religionis utilitatibus et gregis incolumitati consulatis; alienis autem vos peccatis communicare, affirmant Tridentini Patres, nisi quos digniores et Ecclesiæ magis utiles, non quidem precibus vel humano affectu aut ambientium suggestionibus, sed eorum existentibus meritis judicaveritis, profici diligenter curetis; vestri quippe studii ac suffragii rationem redditis ipsi Deo, qui requireret de manibus vestris sanguinem ovium, si quæ ex malo pastorum regimine interiverint. Quam vero ad religionis incrementa utilioremq; Episcopalis muneris procurationem summopere intersit mutuam servari utriusque potestatis concordiam, quandoquidem ex Ivonis Carnotensis testimonio cum Regnum et sacerdotium inter se conveniunt bene regitur mundus, floret et fructificat ecclesia; vestrarum partium erit eos adscisere quos præter qualitates ceteras ecclesiastico jure præfinitas prudentiæ insuper laude commendari, nec Serenissimo Regi minus gratos esse noveritis, de quibus, antequam solemnem electionis actum ex canonum regulis rite celebratis, ut vobis constet curabitis.

Quanquam vero, serenissimi Regis desideriis annuentes, in prædictis nostris litteris constituerimus, eligendos ad Borussiae ecclesias ejusdem regni incolas esse debere, non id circo tamen eos omnes qui extra idem regnum morantur, nulla exceptione facta, esse a vobis intendimus excludendos. Si enim in Presbyterum ex Germanica natione, præcipua laude præclarum, qui extra Borussiae ditionis fines habitet, vota vestra inclinent, eum, assentiente Rege, in Episcopum eligi a vobis posse, libentissime declaramus.

Hac, dilecti filii, a pia et religiosa circumspectione vestra fidenter exquirimus, omnemque id circo in vos pastoralis et paternæ nostræ cohortationis vim effundimus, ut eos nobis confirmandos exhibeatis antistites, de quorum electione Omnipotenti Deo gratias agere, fidem vestram laudare, ecclesiis istis ex animo gratulari, nobis denique in domino gaudere possimus; quæ ut prospere ex sententia succedant, divini præsidii pignus, Apostolicam benedictionem vobis impertimur ex corde.

Datum Romæ Apud Sanctam Mariam Majorem, die Pontificatus Nostri anno XXII.

(Translation.)

To my beloved sons, the Dean and Canons of the Archiepiscopal Church of Cologne, as also to those of the Episcopal Churches of Breslau, Treves, Munster, and Paderborn.

Pius PP. VII.

BELOVED sons, &c.; that which we so ardently, earnestly, and deeply desired for the spiritual welfare of the faithful, and which we have anxiously sought for, we at length rejoice over as being happily effected by the good help of Him who is the author of peace and father of all consolation. After so many vicissitudes in these most unhappy times, we have been able to re-establish in this kingdom the episcopal sees which have been adorned by so many names, and to make suitable provision for the Lord's flock, having first agreed with His Majesty your King, who with that great and lofty spirit which actuates him, has, by contributing liberally to the support of the same, greatly assisted our endeavours. You will clearly understand all that has been done in the matter, from the Apostolic Letters which we have this day ordered to be prepared for you thereupon, under seal, and we doubt not that you will receive no little comfort, when you learn that many of the churches of this kingdom are restored from the wretchedness in which they lay, and that the illustrious privilege of electing bishops is preserved to you, which certainly was especially and most ardently desired, both by your own wishes and those of Germany.

Nevertheless we wish to address you specially on this occasion by letter, not only that we may bless God together with one thanksgiving, but that we may most earnestly call forth your religion, prudence, and integrity, in the most important business of the elections. May there be before your eyes (we say this with the most anxious feelings), may there be always before your eyes that which the Synod of Trent most eloquently held forth to all those who aid in any way in the promotion of the most worthy. (Sess. 24, cap. 1 de Ref., and sess. 6, cap. 1 de Ref.) It is a matter which concerns the glory of Almighty God, the good of souls, and your eternal salvation. Therefore you ought to have no other object in the election than the advantage of religion and the safety of the flock; the Fathers of Trent affirm that you share in the sins of others unless you diligently seek to elect those who are the most worthy and most useful to the Church, judging them according to their own existing merits, unmoved by prayers, human considerations, or the suggestions of canvassers. You will also have to render an account of your efforts and votes to God himself, who will require from your hands the blood of his sheep, if any, through the evil guidance of pastors, should perish. The mutual concord of the two powers tends greatly to the increase of religion, and the advantageous administration of the episcopal office, because, according to the testimony of Ivo of Chartres, when the Government and the priesthood agree together, the world is ruled happily, and the Church flourishes and bears fruit: be it your part to select those whom you know not only to be endowed with the qualifications defined by ecclesiastical law, but who are also praised for their wisdom, as well as acceptable to His Majesty, all which things you must take care to ascertain before you proceed to the solemn act of election, according to the rules of the canons.

As, however, in accordance with the wishes of His Serene Majesty, we have decreed in our before-mentioned Letters, that inhabitants of the Kingdom of Prussia should be elected to the churches thereof, nevertheless we do not on that account intend that you should exclude all those who dwell out of that kingdom, without exception. For if your desires incline to a priest of the German nation, distinguished by especial merit, who may dwell beyond the confines of the Prussian Kingdom, we most willingly declare that, the King assenting, he may be elected by you to a bishopric.

These things, beloved sons, we confidently require from your pious and religious circumspection; and we pour out upon you all the force of our pastoral and paternal exhortation, to the end that you may send to us for confirmation, archbishops and bishops, for whose election we may give thanks to Almighty God, laud your fidelity, congratulate heartily those churches, and finally rejoice in the Lord. And we grant to you, from our heart, the Apostolic benediction, the pledge of divine protection, that these things may turn out happily.

Dated at Rome, at Santa Maria Maggiore, the twenty-second year of our Pontificate.

RUSSIA.

No. 19.

Lord Bloomfield to Viscount Palmerston.—(Received January 4, 1851.)

(Extract.)

St. Petersburg, December 24, 1850.

IN obedience to the instructions contained in your Lordship's despatch of the 13th instant, I have lost no time in endeavouring, to obtain information as to the arrangements which exist between the Russian Government and the Court of Rome, for the governance of the Roman Catholic Church in the Imperial dominions.

There is no Concordat, but certain Articles have been agreed upon with the Court of Rome in 1847, which regulate the questions about which I was directed to make inquiries.

With regard to the appointment of Roman Catholic Bishops, the Emperor nominates; His Imperial Majesty communicates his choice confidentially to the Court of Rome; and if the Court of Rome entertain objections to the selection, it makes them known; if it has no objection, the canonical institution of the bishop takes place at once.

On the other hand, if there are objections, a negotiation on the subject is opened between the two Courts, and an examination of the objections takes place.

As to the publication of Papal bulls and rescripts in the Imperial dominions, all direct communication between the Pope and the Roman Catholic clergy is positively interdicted, and none is allowed to pass otherwise than through the Russian Mission at Rome and the Department of Foreign Affairs at St. Petersburg, which, in conjunction with the Department of Foreign Worship, which is under the jurisdiction of the Minister of the Interior, examines every bull or act emanating from the Court of Rome, before it can be delivered to the Roman Catholic clergy to whom it is addressed.

The Russian Government now decline receiving any Nuncios or Legates at St. Petersburg, except on special missions.

No. 20.

Lord Bloomfield to Viscount Palmerston.—(Received January 4, 1851.)

(Extract.)

St. Petersburg, December 24, 1850.

SINCE writing my foregoing despatch I have obtained two volumes, which contain much useful information respecting the relations of this Court with that of Rome; and I beg leave to refer your Lordship to page 193 of the larger volume, where will be found the Articles negotiated by Count Bloudoff, and signed on the 3rd August, 1847. They contain the last arrangement made by this country with Rome.

Inclosure in No. 20.

Articles concluded between Russia and the Court of Rome, August 3, 1847.

Article I. LE nombre des diocèses Catholiques Romains dans l'Empire de Russie est fixé à sept,—un archevêché et six évêchés, savoir :

1. L'archidiocèse de Mohilew, embrassant toutes les parties de l'empire qui n'entrent pas dans les six diocèses ci-dessous nommés ; le Grand Duché de Finlande y est également compris.

2. Le diocèse de Wilna, comprenant les Gouvernemens de Wilna et de Grodno tels qu'ils sont actuellement délimités.

3. Le diocèse de Telsche ou Samogitie, comprenant le Gouvernement de Courland et celui de Kovno, tels qu'ils sont délimités actuellement.

4. Le diocèse de Minsk, comprenant le gouvernement de Minsk dans ses limites actuelles.

5. Le diocèse de Loutzk et Gitomir, composé des gouvernemens de Kiev et de Volhynie dans leurs limites actuelles.

6. Le diocèse de Kaménieck, comprenant le gouvernement de Podolie dans ses limites actuelles ; et

7. Le nouveau diocèse de Kherson, composé de la province de Bessarabie, des gouvernemens de Kherson, d'Ecatherinoslav, de Saratov, de Tauride et d'Astrakhan, et des contrées situées dans le Gouvernement-Général du Caucase.

Art. II. La bulle de circonscription fixera l'étendue et les limites des diocèses telles qu'elles sont indiquées dans l'Article précédent.

Les décrets d'exécution contiendront le dénombrement et la dénomination des paroisses de chaque diocèse ; ils seront soumis à la sanction du Saint Siège.

Art. III. Le nombre des suffraganéats institués par la bulle du Pape Pie VI, de l'année 1798, dans les six anciens diocèses, est maintenu.

Art. IV. A Saratov il y aura un suffraganéat du nouvel Evêché de Kherson*.

Art. V. L'Evêque de Kherson jouira d'un traitement de 4,480 roubles argent ; son suffragant recevra un traitement égal à celui des autres évêques suffragans de l'empire, savoir 2000 roubles argent.

Art. VI. Le chapitre cathédral de Kherson sera composé de neuf membres, savoir : *a.* deux prélats ou dignitaires, le prévot et l'archidiacre ; *b.* quatre chanoines, dont trois exerceront les fonctions de théologien, de pénitencier et de curé ; et *c.* trois mansionnaires ou bénéficiers.

Art. VII. Il y aura dans le nouvel Evêché de Kherson un séminaire diocésain ; quinze à vingt-cinq élèves y seront entretenus au frais du Gouvernement, comme les boursiers des autres séminaires.

Art. VIII. En attendant la nomination d'un évêque Catholique du rit Arménien, on pourvoira aux besoins spirituels des Arméniens Catholiques résidant principalement dans les diocèses de Kherson et de Kaménieck, en leur appliquant les dispositions du § 9 du Concile de Lateran de 1215.

Art. IX. Les Evêques de Kaménieck et de Kherson auront à déterminer le nombre de clercs Arméniens Catholiques qui doit être entretenu aux frais du Gouvernement dans leurs séminaires respectifs. Il y aura dans chacun de ces séminaires un prêtre Arménien Catholique, pour instruire les élèves de ce rit dans les cérémonies de leur culte.

Art. X. Toutes les fois que les besoins spirituels des Catholiques Romains et Arméniens du nouvel évêché de Kherson pourront l'exiger, l'évêque, en outre des moyens employés jusqu'ici pour subvenir à ces besoins, enverra des prêtres en tournée expresse pour cet objet ; le Gouvernement Impérial lui accordera les sommes nécessaires pour leur voyage et leur entretien.

* Après la signature et la ratification des stipulations convenues avec la Cour de Rome par le présent Acte, il a été arrêté, en vertu d'un arrangement spécial avec la dite Cour, que le diocèse de Kherson, au lieu d'un seul, serait pourvu de deux évêques suffragants, conformément à la teneur de l'Ouase du 29 Novembre, 1848.

Art. XI. Le nombre des diocèses dans le Royaume de Pologne reste tel qu'il a été fixé par la bulle du Pape Pie VII, en date du 30 Juin, 1818. Rien n'est changé au nombre et à la dénomination des suffraganés existant dans ces diocèses.

Art. XII. La désignation des évêques pour les diocèses et les suffraganés de l'Empire de Russie et du Royaume de Pologne, aura lieu, chaque fois, d'après un concert préalable entre l'Empereur et le Saint Siège. L'institution canonique leur sera accordée par Sa Sainteté dans les formes ordinaires.

Art. XIII. L'évêque est seul juge et administrateur des affaires ecclésiastiques de son diocèse, sauf sa dépendance canonique du St. Siège.

Art. XIV. Au nombre des affaires qui doivent être préalablement soumises aux délibérations du Consistoire Diocésain, sont :

1. *Concernant les Ecclésiastiques du Diocèse.*

a. Les affaires disciplinaires en général (toutefois, celles moins importantes, qui n'entraînent que des peines légères, moindre que la destitution ou une détention plus ou moins prolongée, sont décidées par l'évêque, sans l'avis préalable du Consistoire ; sauf à lui, s'il le juge à propos, de consulter le Consistoire sur ces sortes d'affaires ainsi que sur toutes les autres).

b. Les affaires contentieuses entre ecclésiastiques, touchant les propriétés, tant mobilières qu'immobilières, des églises.

c. Les plaintes et réclamations contre des membres du clergé, portées soit par des ecclésiastiques, soit par des laïques, pour injures ou dommages, ou pour l'inexécution d'engagemens non contestés en droit ni en fait, lorsque le réclamant préfère cette voie pour obtenir satisfaction.

d. Les causes de nullité des vœux monastiques ; elles seront examinées et jugées d'après les règles établies par la bulle de Benoit XIV, " Si datam."

2. *Concernant les Laïques.*

e. Les causes matrimoniales, les vérifications de la légitimité des mariages, les actes de naissances, les actes baptistaires, de décès, etc.*

3. *Mixtes.*

f. Les cas où il est nécessaire d'imposer une pénitence canonique pour crime, contravention ou délit quelconque jugés par les tribunaux séculiers.

4. *Economiques.*

g. Déterminations ou budget préalable des sommes affectées à l'entretien du clergé, contrôle des dépenses, compte-rendu de ces sommes, affaires concernant la réparation ou la construction de nouvelles églises, chapelles, etc.

En outre, le Consistoire est chargé de dresser les listes des ecclésiastiques et des paroissiens du diocèse, de l'envoi des circulaires et autres publications, qui ne concernent pas les affaires administratives du diocèse.

Art. XV. Les affaires précitées sont décidées par l'évêque après avoir été examinées dans le Consistoire, dont le caractère néanmoins demeure purement consultatif. L'évêque n'est pas tenu de motiver ses décisions, même dans les cas où son opinion serait différente de celle de son Consistoire.

* Après la signature et la ratification des stipulations convenues avec la Cour de Rome par le présent Acte, en vertu d'un arrangement spécial avec la dite Cour, la marche suivante a été arrêtée pour la connaissance des causes matrimoniales et autres affaires ecclésiastiques. La première instance de juridiction ecclésiastique pour les affaires de cette catégorie sera formée par les évêques diocésains locaux, et dans le diocèse archiepiscopal par l'archevêque avec leurs consistoires respectifs, conformément aux règles établies à ce sujet par l'Art. XV de cette Convention ; la seconde instance pour les affaires jugées en première instance par les évêques, sera formée par l'archevêque, et quant aux affaires jugées en première instance par l'archevêque lui-même, par l'évêque d'un des diocèses les plus voisins de l'archevêché désigné préalablement par le Pape. S'il y a divergence entre les arrêtés des deux premières instances de juridiction ecclésiastique, ainsi que dans les cas d'appel, de plainte ou de protestation, la connaissance des affaires matrimoniales appartient au St. Siège de Rome.

Art. XVI. Toutes les autres affaires du diocèse, qualifiées d'administratives, et dans lesquelles rentrent les cas de conscience, de for intérieur, et même, ainsi qu'il est dit plus haut, ceux de discipline qui n'emporteraient que des pénitences légères ou des exhortations pastorales, ressortent immédiatement de l'autorité et de la décision spontanée et exclusive de l'évêque.

Art. XVII. Tous les membres du Consistoire sont ecclésiastiques. Leur nomination et leur démission dépendent de l'évêque. Les nominations se font avec l'agrément du Gouvernement. Dans le cas où l'évêque, dans sa conscience, jugerait nécessaire d'éloigner un des membres du Consistoire, il lui désignera de suite un successeur, également avec l'agrément du Gouvernement.

Art. XVIII. Le personnel de la chancellerie du Consistoire sera confirmé par l'évêque sur la présentation du secrétaire du Consistoire.

Art. XIX. Le secrétaire de l'évêque, chargé de sa correspondance officielle et particulière est nommé directement par l'évêque, il pourra être, à son gré, pris parmi les ecclésiastiques.

Art. XX. Les fonctions des membres du Consistoire cessent à la mort ou à la démission de l'évêque, ainsi qu'à l'expiration de l'administration du siège vacant. Si l'évêque vient à mourir ou à donner sa démission, son successeur ou celui qui le remplace temporairement (soit qu'il eût un coadjuteur *cum future succession*, soit que le chapitre procède à l'élection d'un vicaire capitulaire, dans les termes fixés par les canons de l'Eglise) recomposera immédiatement le Consistoire, toujours, comme il est dit plus haut, avec l'agrément du Gouvernement.

Art. XXI. L'évêque a la direction suprême de l'enseignement, de la doctrine et de la discipline dans tous les séminaires de son diocèse d'après les règles établies par le Concile de Trente, chap. 18, session 23.

Art. XXII. Les choix des recteurs, inspecteurs, professeurs, ou maîtres pour les séminaires diocésains, sont réservés à l'évêque. Avant de les nommer, il s'assurera que sous le rapport de leur conduite civile, ces choix ne feront pas naître d'objection de la part du Gouvernement. Dans le cas où l'évêque jugerait nécessaire d'éloigner soit le recteur ou l'inspecteur, soit un des professeurs ou maîtres, il lui désigne de suite, et de la même manière, un successeur. Il est libre de suspendre temporairement un ou plusieurs cours d'études dans son séminaire. Dans le cas où il croirait indispensable de suspendre tous les cours à la fois et de renvoyer les élèves à leurs parens,—il aura à en informer sans délai le Gouvernement.

Art. XXIII. L'Archevêque métropolitain de Mohilev exerce sur l'Académie Ecclésiastique de St. Pétersbourg la même autorité que chaque évêque exerce sur son séminaire diocésain. Il en est le seul chef et le directeur suprême ; le Conseil ou la Direction de l'Académie n'a qu'un caractère purement consultatif.

Art. XXIV. Le choix du recteur, de l'inspecteur et des professeurs de l'Académie sera fait par l'archevêque, sur le rapport du conseil de l'Académie. Les dispositions énoncées dans l'Article XXII s'appliquent également à ces choix.

Art. XXV. Les professeurs et adjoints des sciences théologiques sont toujours choisis parmi les ecclésiastiques. Les autres maîtres pourront être choisis parmi les laïques professant la religion Catholique Romaine, et de préférence parmi ceux qui auront achevé leur cours d'études dans un des établissemens supérieurs d'instruction de l'Empire et qui auront des grades académiques.

Art. XXVI. Les confesseurs des élèves des séminaires et de l'académie ne prendront aucune part à la direction disciplinaire de l'établissement ; ils seront choisis et nommés par l'évêque ou archevêque.

Art. XXVII. Après la nouvelle circonscription des diocèses, l'archevêque fixera une fois pour toutes, avec l'avis des ordinaires, le nombre des élèves que chaque diocèse pourra envoyer à l'académie.

Art. XXVIII. Le programme des études sera fait, pour les séminaires, par les évêques. Pour l'académie l'archevêque le fera, après en avoir conféré avec les membres de son conseil académique.

Art. XXIX. Lorsque le règlement de l'académie ecclésiastique de St. Pétersbourg aura subi les modifications conformes aux principes dont

on est convenu dans les Articles précédens, l'Archevêque de Mohilew adressera, concernant l'académie susmentionnée, un rapport au St. Siège pareil à celui que fit l'Archevêque de Varsovie, Khoromanski, à l'occasion de la réorganisation de l'académie ecclésiastique de cette ville.

Art. XXX. Partout où le *Jus Patronatus* n'existe pas ou se trouve temporairement suspendu, les curés sont nommés par l'évêque, avec l'agrément du Gouvernement, à la suite d'un examen préalable et d'un concours entre les candidats, d'après les règles prescrites par le Concile de Trente.

Art. XXXI. La réparation des églises Catholiques Romaines se fait librement aux frais des communes, ou des particuliers qui voudront s'en charger. Dans le cas où leurs ressources ne seraient pas suffisantes, ils pourront s'adresser au Gouvernement Impérial pour en obtenir les secours nécessaires. On avisera à construire des églises nouvelles et à augmenter le nombre des paroisses toutes les fois que pourront l'exiger soit l'accroissement de la population, soit la trop grande étendue des paroisses existantes et la difficulté des communications.

Fait à Rome, le 3 Août, 1847.

(L.S.) (Signé)
(L.S.)
(L.S.)

A. CARD. LAMBRUSCHINI.
D. COMTE DE BLODOFF.
A. BOUTENEFF.

(Translation.)

Article I. THE number of Roman Catholic dioceses in the Russian Empire is fixed at seven, one archbishopric and six bishoprics, namely:

1. The archiepiscopal diocese of Mohilew, comprising all parts of the empire not included in the six under-mentioned dioceses; the Grand Duchy of Finland is also included in it.

2. The diocese of Wilna, including the Governments of Wilna and Grodno according to their present limits.

3. The diocese of Telsche or Samogitia, including the Government of Courland and that of Kovno, according to their present limits.

4. The diocese of Minsk, including the Government of Minsk in its present limits.

5. The diocese of Loutzk and Gitomir, composed of the Governments of Kiev and of Volhynia in their present limits.

6. The diocese of Kaménieck, containing the Government of Podolia in its present limits; and

7. The new diocese of Kherson, composed of the Province of Bessarabia, of the Governments of Kherson, Ecatherinoslav, Saratov, Tauris, and Astracan, and of the countries situated in the Government-General of the Caucasus.

II. The bull of circumscription shall fix the extent and the limits of the dioceses such as they have been set forth in the previous Article.

The decrees of execution shall contain the enumeration and description of the parishes of each diocese: they shall be submitted for the approval of the Holy See.

III. The number of suffragan bishops established by the Bull of Pope Pius VI, dated 1798, in the six ancient dioceses, is preserved.

IV. At Saratov there shall be a suffragan of the new Bishopric of Kherson*.

V. The Bishop of Kherson shall receive an allowance of 4,480 silver roubles; his suffragan shall receive an allowance the same as that made to the other suffragan bishops of the empire, viz., 2000 silver roubles.

VI. The Cathedral Chapter of Kherson shall be composed of nine members, viz.: *a.* two prelates or dignitaries, the provost and archdeacon; *b.* four canons, three of whom shall be employed as theologian, penitentiary and curate; and *c.* three vicars.

VII. There shall be in the new Bishopric of Kherson a diocesan

* After the signature and ratification of the stipulations agreed on with the Court of Rome by the present Act, it was determined by virtue of special agreement with the said Court, that the Diocese of Kherson, instead of one, should have two suffragan bishops, in conformity with the tenor of the Ukase of the 29th November, 1848.

seminary ; fifteen to twenty-five scholars shall be maintained there at the expense of Government as scholars from other seminaries.

VIII. Pending the nomination of a Catholic bishop of the Armenian faith, provision shall be made for the spiritual wants of the Catholic Armenians residing principally in the dioceses of Kherson and of Kaménieck, by applying to them the arrangements contained in § 9 of the Council of the Lateran of 1215.

IX. The Bishops of Kaménieck and of Kherson shall fix the number of Catholic-Armenian clergy to be maintained at the expense of Government in their respective seminaries. There shall be in each of those seminaries a Catholic-Armenian priest to give instruction in the ceremonies of their religion to those studying that ritual.

X. At all times when the spiritual wants of the Roman Catholics and Armenians of the new Bishopric of Kherson may chance to require it, the bishop, in addition to the means hitherto employed to provide for those wants, shall send priests on special circuit for that purpose ; and the Imperial Government will grant the necessary funds for their journey and maintenance.

XI. The number of dioceses in the Kingdom of Poland remains the same as it was fixed by the Bull of Pope Pius VII, dated June 30, 1818. No change is made in the number or denomination of the suffragan bishops existing in those dioceses.

XII. The appointment of bishops to the dioceses and suffragan districts in the Russian Empire and Kingdom of Poland shall take place, on each occasion, after previous concert between the Emperor and the Holy See. Canonical institution shall be granted to them by His Holiness in the usual form.

XIII. The bishop is sole judge and administrator of the ecclesiastical affairs of his diocese, without prejudice to his canonical dependence on the Holy See.

XIV. Amongst the matters which are to be first of all submitted for the consideration of the Diocesan Consistory, are—

1. *With respect to the Clergy of the Diocese.*

a. Questions of general discipline (nevertheless those of less importance, which involve only light penalties, less than deposition or detention for a longer or shorter period, are decided by the bishop, without the previous advice of the Consistory ; but the bishop may, if he thinks fit, consult the Consistory on matters of this kind, as well as on all others).

b. Matters in dispute between ecclesiastics respecting the moveable and immovable property of churches.

c. Complaints and appeals against members of the clergy brought forward either by ecclesiastics or by laymen for injuries or damages, or for failure in the performance of engagements not contested in respect to right or fact, should the claimant prefer that means of obtaining satisfaction.

d. Causes respecting the nullity of monastic vows. These shall be examined and judged according to the rules established by the Bull of Benedict XIV, “*Si datam*.”

2. *Respecting the Laity.*

e. Matrimonial causes, the verification of the legitimacy of marriages, records of births, of baptism, and of deaths, &c.*

* After the signature and ratification of the stipulations agreed on with the Court of Rome by the present act, the following arrangement in virtue of a special agreement with the said Court, has been determined on as to the cognizance of matrimonial causes and other ecclesiastical affairs. The first court of ecclesiastical jurisdiction for affairs coming under this head shall be composed of the local diocesan bishops, and in an archiepiscopal diocese of the archbishop, with their respective consistories, in conformity with the rules established in this respect by Article XV of this Convention : the second Court, for causes judged in the first instance by the bishops, shall consist of the archbishop, and in causes judged in the first instance by the archbishop himself, of a bishop of one of the dioceses nearest the archbishopric, to be previously named by the Pope. If there should be a difference in the sentence of the two first courts of ecclesiastical jurisdiction, as well as in cases of appeal, complaint, or protest, the cognizance of matrimonial causes rests with the Holy See of Rome.

3. *Mixed.*

f. Cases in which it may be necessary to impose canonical penance for a crime, act of disobedience, or misdeed of any nature, which have been decided by the secular tribunals.

4. *Economic Matters.*

g. Estimate or previous budget of the sums applied to the maintenance of the clergy, the control of the expenses, the account of those expenses, and matters concerning the repairs or the construction of new churches, chapels, &c.

Moreover, the Consistory is charged with the duty of making the lists of the clergy and parishioners of the diocese, with the sending round of circulars and other publications which do not relate to the administrative affairs of the diocese.

XV. The aforesaid matters are decided by the bishop after having been examined in the Consistory, whose character is nevertheless purely consultative. The bishop is not bound to assign a reason for his decisions, even in the event of his opinion being different from that of the Consistory.

XVI. All the other affairs of the diocese designated as administrative, in which are included cases of conscience, of private judgment, and even, as is said above, those of discipline involving only slight penance or pastoral exhortation, depend entirely on the authority and on the spontaneous and exclusive decision of the bishop.

XVII. All the members of the Consistory are ecclesiastics. Their nomination and their dismissal depend on the bishop. The nominations are made with the consent of the Government. In case a bishop, in his conscience, should judge it necessary to remove one of the members of the Consistory, he will forthwith name a successor to him, equally with the consent of the Government.

XVIII. The officers of the Chancery of the Consistory shall be confirmed by the bishop on the presentation of the secretary of the Consistory.

XIX. The secretary of the bishop intrusted with his official and private correspondence, is nominated directly by the bishop: he may be selected at his pleasure from among the ecclesiastics.

XX. The functions of the members of the Consistory cease on the death or dismissal of the bishop, as likewise on the expiration of the administration of the vacant see. If the bishop dies or resigns, his successor, or the person who temporarily supplies his place (whether he has had a coadjutor with a reversion of the succession, or whether the chapter should elect a vicar on behalf of the chapter, according to the terms fixed by the canons of the Church), shall forthwith re-organize the Consistory, always, as is said above, with the consent of the Government.

XXI. The bishop has the supreme direction of instruction, of doctrine, and of discipline in all the seminaries of his diocese, according to the rules established by the Council of Trent, c. 18, s. 23.

XXII. The selections of rectors, inspectors, professors or masters for the diocesan seminaries, are reserved to the bishop. Before naming them, he will satisfy himself that as regards their civil conduct, his selections will not give rise to objections on the part of the Government. In case the bishop should deem it necessary to remove either the rector or the inspector, or one of the professors or masters, he will forthwith and in the same manner appoint a successor to him. He is at liberty to suspend for a time one or more courses of study in his seminary. In cases where he might think it indispensable to suspend all the courses at once and to send home the pupils to their parents, he will have to inform the Government without delay of his having done so.

XXIII. The Metropolitan Archbishop of Mohilev exercises over the Ecclesiastical Academy of St. Petersburg, the same authority that each bishop exercises over his diocesan seminary. He is the sole chief and supreme director of it; the council or direction of the academy has only a purely consultative character.

XXIV. The selection of the rector, of the inspector, and of the professors of the academy, shall be made by the bishop on the report of the council of the academy. The regulations specified in Article XXII are equally applicable to these selections.

XXV. The professors and deputies in the theological sciences are always selected from among the ecclesiastics. The other masters may be selected from among laymen professing the Roman Catholic religion, and by preference from among those who shall have completed their course of studies in one of the superior establishments of instruction in the empire, and who shall have taken academical degrees.

XXVI. The confessor of the pupils of the seminaries and of the academy shall take no part in the direction of the academy as regards discipline; they shall be chosen and named by the bishop or archbishop.

XXVII. After the new distribution of the dioceses, the bishop shall fix once for all, with the advice of the ordinaries, the number of the pupils which each diocese shall be able to send to the academy.

XXVIII. The programme of the studies shall be arranged for the seminaries by the bishops. The archbishops shall do so for the academy, after having conferred thereupon with the members of his academical council.

XXIX. When the regulations for the Ecclesiastical Academy of St. Petersburg shall have been modified in conformity with the principles agreed upon in the foregoing Articles, the Archbishop of Mohilev shall address in regard to the aforesaid academy, a report to the Holy See similar to that made by Archbishop Khoromanski of Warsaw, on the occasion of the re-organization of the ecclesiastical academy of that city.

XXX. In all places where the *Jus Patronatus* does not exist, or is temporarily suspended, the curates are appointed by the bishop with the consent of the Government, after previous examination and competition among the candidates, according to the rules prescribed by the Council of Trent.

XXXI. The repairs of the Roman Catholic Churches are made without restriction at the expense of the districts or at that of individuals who shall desire to undertake them. In case their resources should not be sufficient, they may apply to the Imperial Government for the requisite assistance. Measures will be taken for the construction of new churches and for the augmentation of the number of parishes as often as they may be required either by the increase of the population or by the too great extent of the existing parishes and the difficulty of communication.

Done at Rome, the 3rd of August, 1847.

(L.S.)

(Signed)

A. CARD. LAMBRUSCHINI.]

(L.S.)

D. COMTE DE BLODOFF.

(L.S.)

A. BOUTENEFF.

SARDINIA.

No. 21.

The Hon. R. Abercromby to Viscount Palmerston.—(Received January 16.)

My Lord,

Turin, January 9, 1851.

IN obedience to the instructions contained in your Lordship's despatch of the 12th ultimo, I lost no time in applying to the Government of His Sardinian Majesty for the information required relative to the course pursued with regard to the receiving and publishing of Papal bulls, briefs, rescripts, &c., within the Sardinian States; and I have now the honour to transmit herewith to your Lordship, copy of a note I received on the 7th instant from his Excellency the Chevalier d'Azeglio, forwarding to me, for your information, various documents connected with this subject, and which furnish answers to the questions which I addressed to him by your direction.

The six volumes of treaties which accompanied the Chevalier d'Azeglio's note I have given to Mr. Lettsom to carry with him to London, as they were too bulky to be sent by the usual conveyance.

The Chevalier d'Azeglio has been kind enough to furnish me with a copy of the oath taken by new Cardinals; and although this last document is not alluded to in his note to me, I nevertheless consider it to be of sufficient interest to add a copy and translation of it to the other inclosures in this despatch.

I have, &c.

(Signed) RA. ABERCROMBY.

Inclosure 1 in No. 21.

The Chevalier d'Azeglio to the Hon. R. Abercromby.

Turin, le 4 Janvier, 1851.

LE Soussigné, &c., en répondant à la note du 18 Décembre, par laquelle Mr. Abercromby, &c., demandait quelques renseignemens sur les Concordats conclus par Sa Majesté Sarde avec le St. Siège, et sur les autres matières qui s'y rapportent, se fait un plaisir de lui envoyer les six volumes des Traités publics stipulés par la Maison de Savoie avec les Puissances étrangères.

Cette collection renferme, entr'autres, au volume II, p. 440 et 529, les Concordats conclus avec les Souverains Pontifes Benoit XIII et Benoit XIV, au moyen desquels on parvint à terminer les différends qui existaient entre la Cour de Sardaigne et la Cour de Rome. Par leur texte, et par les instructions qui s'y rattachent, et qu'on trouve à la page 537, on pourra facilement connaître sur quelles bases les rapports entre le pouvoir civil et l'autorité religieuse ont été établis.

Le Soussigné s'est empressé de s'adresser en même temps au Ministre de la Justice et des Affaires Ecclésiastiques, afin de se procurer les détails relatifs aux traitemens alloués aux évêques, ainsi qu'à la nature des fondations destinées à y pourvoir, et qui forment le sujet du petit mémoire réuni à la présente note.

Quoique ce mémoire renferme une réponse catégorique aux différentes questions posées par M. le Représentant de Sa Majesté Britannique relativement à la publication et à la mise à exécution dans les Etats Sardes, des bulles, brefs, rescrits, et autres expéditions de la Cour de Rome, le Soussigné a cependant jugé à propos dans le but de mieux satisfaire aux demandes qui lui étaient faites, de réunir aussi une copie d'un Billet Royal adressé par le Roi Victor-Amédée II aux différens Sénats du royaume, pourqu'ils dussent s'y conformer lorsqu'ils étaient appelés, dans l'exercice de leurs attributions, à accorder le décret "d'exéquatur" aux provisions Papales de toute nature, à l'exception de celles qui concernent les particuliers, et se rapportent aux cas de conscience.

Dans l'espoir d'avoir satisfait par ce moyen aussi complètement qu'il était possible, aux désirs exprimés par Mr. Abercromby, le Soussigné, &c.
(Signé) AZEGLIO.

(Translation.)

Turin, January 4, 1851.

THE Undersigned, &c., in reply to the note of the 18th of December, in which Mr. Abercromby, &c., requested certain information as to the Concordats concluded by His Sardinian Majesty with the Holy See, and as to other matters relating thereto, has the pleasure of forwarding to him the six volumes of the public treaties concluded by the House of Savoy with foreign Powers.

This collection contains, among other things, in the second volume, pp. 440 and 529, the Concordats concluded with the Sovereign Pontiffs Benedict XIII and Benedict XIV, by means of which a settlement was effected of the differences between the Court of Sardinia and the Court of Rome. By their text and by the instructions annexed thereto, and which are found in page 537, it can be easily ascertained on what bases the relations between the civil power and the religious authority have been established.

The Undersigned has at the same time applied to the Minister of Justice and Ecclesiastical Affairs, in order to obtain the details relating to the allowances assigned to the bishops, as also to the nature of the foundations destined to provide for them, and which forms the subject of the small memorandum annexed to the present note.

Although this memorandum contains a categorical answer to the different questions stated by Her Britannic Majesty's Representative in regard to the publication and the carrying into execution within the Sardinian States, of the bulls, briefs, rescrits, and other documents emanating from the Court of Rome, the Undersigned has nevertheless thought it fitting, with the view of better complying with the demands addressed to him, to add likewise a copy of a Royal Decree addressed by King Victor Amadeus II to the different Senates of the kingdom, for their guidance when called upon in the exercise of their duties to grant exequaturs to Papal ordinances of any kind, with the exception of those relating to individuals and to cases of conscience.

Hoping by these means to have as fully as possible complied with the wishes expressed by Mr. Abercromby,

The Undersigned, &c.

(Signed)

AZEGLIO.

Inclosure 2 in No. 21.

Concordat between Sardinia and the Court of Rome, of May 29, 1727.

I. CHE tutti i frutti de' Vescovati, ed Abbazie comprese sotto l'Indulto di Niccolò V, che nel tempo della loro vacanza matureranno, debbano conservarsi per commodo delle dette Chiese vacanti, e loro successori sotto la custodia, ed economato di Sua Maestà, cioè dagli Economi da deputarsi dalla medesima nel tempo della vacanza.

II. Che rispetto ai Vescovati, ed Abbazie comprese sotto il medesimo

Indulto in caso di morte dei loro Prelati e Benefiziati, tutti i frutti maturati, e non esatti dai medesimi nel tempo della loro morte, come pure la roba lasciata, e da essi acquistata coi frutti Ecclesiastici, debbano andare, ed applicarsi secondo la consuetudine, che si trovava legittimamente introdotta, ed osservata nel tempo precedente alle ultime discordie, e pendenze tra la Santa Sede Apostolica e Sua Maestà.

III. Che rispetto ai Benefizi non compresi sotto l'Indulto di Niccolò V parimente dall'una e l'altra Parte, si debba stare alla sopraccennata consuetudine che vi era avanti le suddette ultime discordie, e pendenze, tanto rispetto ai frutti maturati, e non esatti in tempo della morte de' loro Benefiziati, come anche alla roba da loro lasciata, ed acquistata coi frutti Ecclesiastici, quanto rispetto ai frutti, che matureranno durante la vacanza sino alla nuova provvista de' successori.

IV. Havendo Sua Maestà inteso desiderarsi da Sua Santità l'imposizione di qualche pensione sopra i Benefizii compresi nell'Indulto, benchè sappia la Maestà Sua, che stante il *ius* di nominare, che in esso li vien dato, non si possono imponer pensioni senza il suo consenso; desiderando nulla di meno di dar ogni maggior riprova del suo filiale ossequio verso la Persona di Sua Beatitudine e verso la Santa Sede Apostolica, offerisce alla disposizione sua, e de' Sommi Pontefici suoi successori, sopra l'Abbazia di Lucedio, che è di Regio Padronato di Sua Maestà, la riserva di una pensione nella somma che la Santità Sua gradirà, e sarà da essa denominata.

E la Santità di Nostro Signore accettando con il paterno suo affetto l'esibizione di Sua Maestà, riserva a se ed ai suoi successori, la facoltà d'imponere una pensione nella somma di scudi mille e cinque cento moneta Romana di dieci giulii per ciascun scudo da assegnarsi ad una o più persone, anche non suddite della Maestà Sua sopra i frutti dell'Abbazia di Lucedio.

Ed altresì non tralascierà la Santità Sua ed i suoi successori, di riservare a supplicazione di Sua Maestà e de' suoi successori, le pensioni sopra i Vescovadi ed Abbazie comprese nell'Indulto di Niccolò V, in quella forma e quantità che si sogliono riservare a petizione de' Supremi Principi Indultarii; quali pensioni, quanto ai Vescovadi, non eccedino la terza parte delle annue rendite. E venendo il caso che per qualche causa non potesse aver luogo sopra la detta Abbazia di Lucedio la pensione delli scudi mille cinque cento Romani riservata alla disposizione Pontificia, si trasferirà l'imposizione sopra un'altra Abbazia di Padronato di Sua Maestà, che verrà dall'una e l'altra Parte concordata.

V. Esprimendosi nella minuta del Breve, che nella provvista delle Chiese Cattedrali di Casale, Acqui, ed Alessandria si osservi lo stile praticato sin ora, e pretendendo la Maestà del Re di Sardegna toccare ad essa il *ius* ancora di nominare alle predette, e ciò non meno per l'Indulto di Niccolò V, che per il Breve della Santa memoria d'Innocenzo XII, non ricusa la Santa Sede di sentire le ragioni, e quando le medesime siano valide, di farli giustizia a tenore delle medesime.

29 Maggio, 1727.

N. M. CARDINALE LERCARI.

FERRERO DI ROASCIO MARCHESE D'ORMEA.

(Translation.)

I. THAT all the revenues of bishoprics and abbeys included in the grant (*Indulto*) of Nicholas V, which shall accrue during the time of their being vacant, shall be preserved for the benefit of the said vacant churches and their successors, under the keeping and stewardship of His Majesty, that is to say, of stewards to be appointed by him at the time of the vacancy.

II. That in relation to the bishoprics and abbeys included in the same grant, in case of the death of their prelates and incumbents, all the revenues which shall have accrued and are not received at the period of their decease, as also the property left and acquired by them out of their ecclesiastical incomes, shall go and be applied according to the custom which has been lawfully introduced and observed in the time preceding the recent disagreements and differences between the Holy Apostolic See and His Majesty.

III. That with regard to benefices not included in the grant of Nicholas V, both parties shall abide by the above-mentioned custom, which existed before

the recent disagreements and differences, both with respect to the revenue accrued and not received at the period of the death of the incumbents, and to the property left by them and acquired out of their ecclesiastical income, and with respect to the revenue which shall accrue during the vacancy, until the appointment of their successors shall have taken place.

IV. His Majesty having understood that His Holiness wished some pensions to be charged upon the benefices included in the grant, although His Majesty is aware, that while the *jus* of nomination exists which is therein given to him, no pensions can be charged without his consent, nevertheless, being desirous of giving every proof of his filial respect towards the person of His Holiness and towards the Holy Apostolic See, he places at his disposal and at that of the Supreme Pontiffs his successors, the reservation of a pension upon the Abbey of Lucedio, which is in His Majesty's royal patronage, to the amount which His Holiness shall be pleased to fix.

And His Holiness, accepting with paternal affection the offer of His Majesty, reserves to himself and to his successors, the right to assign a pension in the sum of 1500 scudi Roman money of 10 giuli each scudo, to one or more persons, though not subjects of His Majesty, on the revenues of the Abbey of Lucedio.

And moreover, His Holiness and his successors will not fail to reserve, on the solicitation of His Majesty and his successors, the pensions of the bishoprics and abbeys included in the grant of Nicholas V, in the form and to the amount which it is usual to reserve at the solicitation of Sovereign Princes to whom such grants are made, which pensions, in the case of bishoprics, shall not exceed the third part of the annual revenues.

And should it happen, that from any cause, the pension of 1500 Roman scudi charged upon the said Abbey of Lucedio and placed at the disposal of the Pontiff, should not be assigned, the pension shall then be charged upon another abbey in His Majesty's patronage, to be agreed upon by both parties.

V. It being stated in the minute of the brief, that in the appointment to the cathedral churches of Casale, Acqui, and Alessandria, the custom which has hitherto prevailed shall be maintained, and His Majesty the King of Sardinia claiming the *jus* of nomination of the aforesaid sees as belonging to him, and that as well by the grant of Nicholas V as by the brief of Innocent XII, of holy memory, the Holy See does not refuse to hear the reasons, and in case the same shall be valid, to decide accordingly.

May 29, 1727.

(Signed)

N. M. CARDINAL LERCARI.
FERRERO DI ROASCIO MARQUIS D'ORMEA.

Inclosure 3 in No. 21.

Concordat between Sardinia and the Court of Rome, of January 5, 1741.

ESSENDO la Maestà di Carlo Emanuele, Re di Sardegna, piena d'ogni maggior venerazione verso la Sede Apostolica et la Sagra Persona del Regnante Pontefice, Benedetto XIV, e desiderando pure questo stesso Pontefice ogni congiuntura per far conoscere alla Maestà Sua il paterno tenerissimo affetto, che ha per essa, e la sua Reale Famiglia e suoi felicissimi Stati; ed essendo da questa sincera vicendevole corrispondenza derivato il comune pensiero di torre di mezzo ogni attacco, ogni dubbietà, disputa, e controversia sopra l'intelligenza, ed esecuzione d'altro accomodamento fatto nella materia benefiziale fra la Santa Sede, e la Maestà del Re di Sardegna nel tempo del Pontificato della felice memoria di Benedetto XIII; inerendo altresì all'intenzione della pure felice memoria di Clemente XII, che per questo stesso effetto deputò una Congregazione d'alcuni Signori Cardinali e Prelati, nella quale, benchè fosse esaminata e discussa la materia, restò però il tutto senza esecuzione per la morte soppraggiunta del predetto Pontefice Clemente, si è finalmente di comune consenso del Regnante Pontefice Benedetto XIV, e della sopradetta Maestà del Re di Sardegna venuto all'estensione, e sottoscrizione de' seguenti Capitoli, che più volte Sua Beatitu-

dine ha veduti, considerati, ed esaminati dopo aver anche inteso il parere di Cardinali, e d'uomini savi chiamati a consiglio per la sussistenza e validità de' quali Capitoli interpone la pienezza della sua Apostolica Autorità, ed i Capitoli sono li seguenti :

I. Per l'Econonato de' frutti dei Vescovadi ed Abbazie comprese sotto l'Indulto di Niccolò V, che nel tempo della loro vacanza matureranno, Sua Maestà deputerà d'or in avvenire una persona Ecclesiastica.

II. La Camera Apostolica potrà raccogliere per mezzo de' suoi succollettori liberamente gli spogli sì dei Vescovadi ed Abbazie, che degli altri Benefizi minori tanto di libera collazione, che di nomina Regia, e gli spogli, e vacanti di detti Benefizii minori di libera collazione della Santa Sede nelle Diocesi del Piemonte e Monferrato, eccettuate le Terre cedute nelle ultime due Paci dalla Francia.

III. Fermo restando, ed illeso interamente tanto nella prerogativa del dritto di nomina, che degli effetti suo il Breve *Dudum* della Santa memoria di Benedetto XIII, la Santa Sede darà sempre esecuzione al medesimo come è stato dichiarato da detto Pontefice, siccome pure la medesima Santa Sede darà esecuzione alla risoluzione d'una Congregazione di più Cardinali e Prelati, emanata li Giugno 1728, per le vacanze *in curia, et apud sedem*, ed in ordine alla riserva delle pensioni sopra li Vescovadi o Abbazie comprese nel Breve sopradetto *Dudum*, tratterà Sua Maestà ed i suoi successori, come tratta li Supremi Principi Indultari.

IV. Ed essendo nato dubbio sull' intelligenza dell' accennato Indulto se comprenda li Benefizi Concistoriali delle Provincie di Casale, Acqui ed Alessandria, Lomellina e Valsesia, che si possedevano dalla gloriosa memoria del Re Vittorio Amedeo in tempo del sudetto concesso Indulto per le parole ivi espresse, *Quod idem Rex Victorius Amedeus de præsenti possidet*: e le altre, *excipientes tantum Cathedrales Ecclesias Casalensem, Aquensem et Alexandrinam, etc.*, si dichiara, che sono compresi li detti Benefizi Concistoriali delle suddette Provincie in detto Indulto, ferma sempre rimanendo l'eccezzuazione delle tre Chiese Cattedrali d'Acqui, Casale ed Alessandria, le quali dovranno provvedersi in avvenire dalla Sede Apostolica, secondo però lo stile, e pratica da essa servata sin'ora; bensi, che siccome pretende Sua Maestà toccar ad esso il gius ancora di nominare all'ora espresse tre Chiese Cattedrali, e ciò non meno per Indulto di Niccolò V, che per il Breve della Santa memoria d'Innocenzo XII, così riserva la Santa Sede a Sua Maestà il poter dedurre le sue ragioni, e quando le medesime siino valide, renderà la dovuta giustizia.

V. Riserverà la Dataria Apostolica in tutti li paesi compresi nell' Indulto di Benedetto XIII a favore degli esteri le pensioni sopra li Benefizi semplici, che secondo l'espressione dei frutti fatta nelle suppliche e Bolle eccederanno il frutto di cento scudi Romani, e sopra li Benefizi residenziali eccederanno la somma di scudi cento cinquanta Romani per quella somma però, che eccederà la detta quantità di scudi cento, o cento cinquanta rispettivamente, e purchè la detta pensione a favore degli esteri non ecceda la terza parte di tutti li frutti del Benefizio espressi come sopra nelle suppliche e Bolle. Restano però eccettuate le Parrocchie sopra le quali non riserverà pensione, nè a favore degli esteri, nè a favore dei sudditi, se non nei casi di rassegna, permuta, e concordia, ne' quali casi naturalmente la riserva non può cadere, che a favore dei sudditi, ed eccettuatati ancora li Padronati delle famiglie, sopra li quali Sua Santità non riserverà pensioni se non che a favore dei sudditi, e di consenso dei Padroni quando è necessario. Con espressa dichiarazione qual dettaglio, e quali regole s'intendino solo nel caso che Sua Santità riservi le pensioni a favore degli esteri, e non già quando vorrà riservarle a favore de' sudditi, nel qual caso resterà in quella libertà nella quale è stata sin'ora secondo il solito.

E con espressa dichiarazione in oltre, che la pensione di scudi mille cinque cento moneta Romana riservata secondo li Concordati di Papa Benedetto XIII sopra l'Abbazia di Lucedio a libera disposizione della Santa Sede, ed anche a favore degli esteri s'intendi cassata affatto, e come se mai fosse stata riservata; ma la cassazione abbia soltanto l'effetto dopo la morte di Monsignor Milo, Uditore di Sua Santità, al quale la Santità Sua che la godeva, l'ha trasferita, o per dir meglio conferita d'intelligenza, e consenso di Sua Maestà.

VI. Li rispettivi Deputati promettono di riportare la ratifica di tutto quanto sopra, sì da Sua Santità che da Sua Maestà subito, e più presto che sia possibile

e che immediatamente dopo si darà rispettivamente esecuzione nel medesimo tempo a tutti li suddetti Capi, per indi passare a discorrere senza ritardo, e chiarire gli altri punti d'immunità e giurisdizione Ecclesiastica, per li quali Sua Santità ha tutta la premura.

S. CARDINALE VALENTI.

ALESSANDRO CARDINALE ALBANI.

GIO. BATTISTA BALBIS SIMEONE CONTE DI RIVERA.

(Translation.)

HIS Majesty Charles Emanuel, King of Sardinia, being filled with the greatest veneration towards the Apostolic See and the sacred person of the reigning Pontiff, Benedict XIV; and the said Pontiff being on the other hand desirous of seizing every opportunity of testifying to His Majesty his most tender paternal affection for him and his royal family and most happy dominions; and this sincere mutual good feeling having suggested in both the idea of removing every objection, every doubt, dispute, and controversy as to the meaning and execution of another agreement made in the matter of benefices between the Holy See and His Majesty the King of Sardinia, in the time of the Pontificate of Benedict XIII, of happy memory; and following up also the intention of Clement XII, also of happy memory, who appointed for this purpose a congregation of certain Cardinals and prelates, in which, although the subject was examined and discussed, nothing whatever was settled, in consequence of the death of the aforesaid Pontiff, Clement; now, at length, by the common consent of the reigning Pontiff, Benedict XIV, and of his aforesaid Majesty the King of Sardinia, the following clauses have been drawn out and signed, which have been several times seen, considered, and examined by His Holiness, who, after having heard the opinion of Cardinals and learned persons called to his Council, as to the efficacy and validity of the said clauses, interposes the fulness of his Apostolic authority. The clauses are as follow:

I. His Majesty shall henceforth depute an ecclesiastical person for the stewardship of the revenues of the bishoprics and abbeys included under the grant of Nicholas V, which shall accrue during the time of their vacancy.

II. The Apostolic Treasury may freely collect, by means of its sub-collectors, the standing crops left at the decease of the incumbent, as well of the bishoprics and abbeys, as of the other minor benefices, both those of free collation and of royal nomination, and the crops as well as produce accruing during vacancies of the said minor benefices of free collation of the Holy See, in the dioceses of Piedmont and Monferrato, excepting the territories ceded in the two last Treaties of Peace, by France.

III. The Brief *Dudum* of the late Benedict XIII, remaining valid and in force, both as to the prerogative of the right of nomination and as to its results, the Holy See will always carry the same into effect as declared by the said Pontiff; and moreover the said Holy See will carry into effect the resolution of a congregation of several Cardinals and prelates, issued on the of June, 1728, for vacancies *in curia et apud sedem*; and in respect of the reservation of the pensions upon the bishoprics or abbeys included in the above-mentioned Brief *Dudum*; and the Holy See will act towards His Majesty and his successors as it does towards Sovereign Princes to whom grants have been made.

IV. And a doubt having arisen as to the meaning of the above grant, whether it includes the consistorial benefices of the Provinces of Casale, Acqui, and Alessandria, Lomellina, and Valsesia, which were held by King Victor Amedeus, of glorious memory, at the period of the above grant, by the words therein expressed, "*Quod idem Rex Victorius Amedeus de præsenti possidet*;" and the other words, "*excipientes tantum Cathedrales Ecclesias Casalensem, Aquensem, et Alexandrinam*," &c., it is declared that the said consistorial benefices of the said provinces are included in the said grant; the exception still remaining in force of the three cathedral churches of Acqui, Casale, and Alessandria, to which bishops shall in future be appointed by the Apostolic See, in accordance, however, with the style and practice hitherto followed by it; but whereas His Majesty claims the right of nomination to the three said cathedral churches, and that as well by the grant of Nicholas V as by the brief of the late

Innocent XII, the Holy See reserves to His Majesty the power to bring forward his reasons, and in case the same shall be valid, will render the justice which shall be due.

V. The Apostolic Dataria, in all the territories included in the grant of Benedict XIII. will reserve in favour of foreigners, the pensions upon simple benefices, which according to the statement of the revenues set forth in the petitions and bulls, shall exceed the income of 100 Roman scudi, and upon residential benefices, which shall exceed the sum of 150 Roman scudi, but only to the amount exceeding the 100 or 150 scudi respectively, and so that the said pensions in favour of foreigners do not exceed the third part of all the income of the benefice set forth as above in the petitions and bulls. Parishes, however, are excepted, upon which no pensions shall be reserved either in favour of foreigners or of subjects, except in the case of resignation, exchange, or agreement, in which cases naturally the reservation cannot take effect other than in favour of subjects; and except also those in the gift of private families, upon which His Holiness will not reserve pensions unless in favour of subjects, and with the consent of the patron, when necessary. It is expressly declared that these particulars and rules apply only in the case where His Holiness reserves pensions in favour of foreigners, and not when he wishes to reserve them in favour of subjects, in which case he will remain in the same freedom of action as he has hitherto been, according to usual custom.

And it is moreover expressly declared, that the pension of 1500 scudi of Roman money, which by the Concordats of Pope Benedict XIII is reserved upon the Abbey of Lucedio at the free disposal of the Holy See, also in favour of foreigners, is understood to be wholly annulled as though it had never been reserved; but the annulment shall not take effect until after the death of Monsignor Milo, Auditor of His Holiness, to whom His Holiness, who was in possession, has transferred it, or rather has conferred it with the knowledge and consent of His Majesty.

VI. The respective Deputies promise to obtain the ratification of all the above, both from His Holiness and from His Majesty, as early as it shall be possible; and that immediately afterwards all the above agreements shall be respectively carried into execution at the same time, so that the other points of ecclesiastical immunity and jurisdiction may be brought under discussion and determined without delay, which His Holiness is very desirous should be done.

(Signed) S. CARDINAL VALENTI.
ALEXANDER CARDINAL ALBANI.
G. BATTISTA BALBIS SIMEONE,
Conte di Rivera.

Inclosure 4 in No. 21.

Instructions for the Execution of the Concordat of January 5, 1741.

ESSENDO noto a ciascheduno, che nel tempo del Pontificato della Santa memoria di Benedetto XIII, per sopire le controversie eccitate fra la Santa Sede e la Maestà del Re di Sardegna sopra l'immunità e libertà ecclesiastica, e sopra la materia benefiziale, furono fatti alcuni fogli di accomodamento e concordato; ed essendo altresì noto, che nel principio del Pontificato della Santa memoria di Clemente XII non mancarono nuove questioni sopra ciò che fu fatto e concordato nel tempo del di lui antecessore Papa Benedetto XIII già nominato; ed essendosi poi nel fine del Pontificato del nominato Clemente XII riassunta l'ispezione sopra la materia benefiziale, e introdotta un'altra sopra la feudale, della quale non s'era parlato nel Pontificato di Papa Benedetto; ed essendosi in varii congressi, e coll' intervento di Prelati e Cardinali esaminato ciò che doveva esaminarsi, nè essendosi potuto conchiudere il trattato per la morte sopravvenuta del Pontefice Clemente; eletta la Santità di Nostro Signore Papa Benedetto XIV, non ha mancato Sua Beatitudine, camminando sulle pedate del suo antecessore, d'imporre fine con tutta soddisfazione della Maestà del Re di Sardegna alle questioni sopra la materia benefiziale, e sopra la materia feudale. E avvegnachè nel progetto d'accomodamento sopra l'immunità e libertà ecclesiastica, fatto nel tempo del Pontificato di Papa Benedetto XIII, fosse espressamente

riservato il fare un' istruzione da mandarsi al Ministro Apostolico, che si sarebbe trasmesso a Torino, con ordine di comunicarla ai Vescovi; ed il Ministro allora non fosse trasmesso, nè perciò fosse fatta la sopraddeffa istruzione, e ne' congressi tenuti nel fine del Ponteficato del Pontefice Clemente si fosse incominciato a discorrere della materia dell' istruzione, nè si fosse di poi proseguito per la detta morte sopravvenuta; la Santità di Nostro Signore Papa Benedetto XIV, dopo aver sentito il parere di alcuni Cardinali zelanti, e ben pratici della materia, ed aver prese tutte le necessarie informazioni dello stato in cui ritrovansi gli affari dell' immunità e libertà ecclesiastica, trasmette a Monsignor Merlini, Commessario Apostolico nelle dette parti, la presente istruzione, che dovrà comunicare ai Vescovi, in cui si andranno appianando varie difficoltà insorte nell' intelligenza e nell' esecuzione dell' accomodamento fatto nel tempo del Ponteficato di Benedetto XIII, e si aggiugneranno ancora altre regole pel buon governo della giurisdizione e immunità ecclesiastica, con viva speranza, che il tutto sia per essere di buona voglia accettato dalla Maestà del Re di Sardegna, che ha dato e dà continuamente tante prove del suo affettuoso e sincero attacco alla Sede Apostolica; e acciò si cammini colla dovuta chiarezza, si dividerà la presente istruzione in due parti: nella prima delle quali si tratterà di ciò che riguarda il Concordato di Papa Benedetto; e nell' altra si accenneranno le cose che appartengono al buon governo della giurisdizione, e immunità ecclesiastica, di cui non si era parlato nel più volte nominato Concordato del predetto Pontefice.

I. Avendo alcuni Vescovi parte della loro Diocesi negli Stati della Maestà del Re di Sardegna, benchè le loro città ed altra parte della Diocesi siano negli Stati d'altro Principe, ed eccitatosi controversia, non già circa il visitare, e l'esercitare ogni atto di giurisdizione in quella parte della Diocesi situata nel dominio temporale del detto Re, ma circa il modo, se nella detta parte dovesse dai Vescovi tenersi un Vicario foraneo, secondo il metodo della canonica giurisprudenza, oppure un Vicario generale, come pareva che richiedesse il comodo de' sudditi, ad effetto che non fossero astretti in ogni cosa almeno di rilievo a lasciare il loro paese per andar a litigare nel tribunale ecclesiastico, e avanti il Vescovo, o suo Vicario-Generale, che suole stare nel luogo ove abita il Vescovo; fu dalla Santa memoria di Benedetto XIII ritrovato, e stabilito un temperamento, in cui salva sempre ed illesa l'autorità Vescovile circa il visitare, ed esercitare ogni atto di giurisdizione spirituale ed ecclesiastica in quella parte della loro Diocesi situata negli Stati del Re di Sardegna, fu loro comandato il deputare nelle più volte nominate parti delle loro Diocesi un Vicario-Generale non sospetto al Sovrano temporale, acciò in esse a nome loro, e colla giurisdizione che obbligò di dare ad essi, trattasse, disbrigasse, e giudicasse ogni sorta di cause tanto nel civile, quanto nel criminale, in ordine a quelle persone, sopra le quali avessero diritto di giudicare. Inoltre, andando quel provido Pontefice al riparo del temuto pregiudizio dell' autorità Vescovile, che potesse dirsi inferito per l'obbligo di deputare il più volte nominato Vicario-Generale, aggiunse comandando, che nella deputazione da farsi da ciaschedun Vescovo del loro Vicario-Generale nelle parti delle Diocesi sottoposte al Re di Sardegna si ordinasse da ciascheduno di loro al suo Vicario-Generale di non procedere a verun atto di conseguenza, e così molto meno a veruna sentenza criminale, senza prima avergli partecipato il tutto, e ottenuta da lui la precedente annuenza, sotto pena, in caso di contravvenzione, di scomunica maggiore da incorrersi *ipso facto*, se il Vicario non è sacerdote, e sotto pena di sospensione *a divinis*, pure *ipso facto*, se è sacerdote, oltre la pena della rimozione dall' uffizio, e altre arbitrarie, secondo la qualità delle trasgressioni: e tutto ciò dovrà eseguirsi.

II. Ne' possessorii *restituendæ et reintegrandæ* nella materia de' benefici e delle decime fu ammesso per titolo di tolleranza nel Concordato del Pontefice Benedetto XIII, che vi si potesse ingerire la podestà laicale, che però fu esclusa dal petitorio in tal maniera, che, eccitatosi nelle predette materie la controversia sopra il petitorio, non potesse la medesima esser decisa da altri, che dal Giudice ecclesiastico. Per esempio, se uno per lo passato fosse solito pagare quattro misure di grano a titolo di decime spirituali, fu detto che si sarebbe tollerato, che convenuto fosse avanti al Giudice laico pel detto pagamento, ancorchè l'ecclesiastico contrastasse, e pretendesse, che negli anni passati se gli fossero pagate cinque o sei misure, come pure, se taluno ecclesiastico fosse rimasto spogliato di qualche beneficio, oppure dell' esazione di decime, senza entrare a esaminare il *ius*, volesse soltanto con prove e con atti meramente di fatto giusti-

ficare d'essere stato o violentemente, o per un puro accidente, o un fatto di guerra, o altro consimile, tolto o impedito il suo possesso; e perciò pretendesse d'essere rimesso, e continuar nel medesimo, fu detto, che si sarebbe tollerato, che l'esame di tal fatto si potesse fare innanzi del Giudice laico; ma quando l'ecclesiastico, ammesso il pagamento negli anni passati a ragione di quattro misure, dicesse o pretendesse d'averne cinque in futuro, e disputare sopra il *ius* di esigerne tante in avvenire, non potesse tal pretensione discutersi avanti a verun Giudice, che l'ecclesiastico.

Essendo nate varie controversie sopra questa stessa parte del Concordato, e potendo nel tempo avvenire eccitarsi altri dubbi, Sua Santità raccomandando alla Maestà del Re di Sardegna l'ecclesiastica giurisdizione, e ben sapendo, che ne' suoi felicissimi Stati non lascerà mai che sia vulnerata; ed essendo Sua Santità ben consapevole dell'intenzione del Pontefice Benedetto, determina, che esser debba la sopraddetta ingerenza della podestà laicale non privativa, ma cumulativa colla podestà ecclesiastica in tal maniera, che sia luogo alla prevenzione. Determina pure, che sotto nome di materia benefiziale nell'affare di cui si tratta, non resti in verun modo compresa la materia de' sacri riti, nè tampoco la materia delle precedenzae nelle sacre funzioni, o fra gli ecclesiastici, o fra gli ecclesiastici e i laici; dovendo tanto il petitorio, quanto il possessorio appartenere privatamente al Giudice ecclesiastico, a cui pure appartenere debba col petitorio anche il possessorio in tutto ciò che riguarda il sacro e lo spirituale: che pendendo l'affare avanti il Giudice laico nei due accennati possessorii, debba la causa dal laico passare all'ecclesiastico, se dal Giudice si vuol assumere disputa sopra il titolo, e particolarmente se il petitorio sia di tal chiarezza che assorbsca il possessorio; e che finalmente, terminato il possessorio avanti il Giudice laico, non resti impedita veruna delle parti ad introdurre nuovo giudizio nel petitorio avanti il Giudice ecclesiastico.

III. Nel Concordato col Pontefice Benedetto trattossi dell'esecuzione de' Brevi, e Bolle Apostoliche, come può leggersi nello stesso Concordato. Fu tollerata la semplice visura senza porre alcun segno, o fare alcun decreto in ordine all'esecuzione sopra dette Bolle, e Brevi; e si sa, che tutto ciò è stato fedelmente adempito. E benchè si dica con ogni asseveranza, e si creda che nè il Senato nè verun altro Tribunale non ha assunta ad istanza di chi si sia la cognizione sovra la giustizia o pretesa ingiustizia delle Bolle o de' Brevi; desiderandosi nulladimeno, che il tutto mai sempre proceda con una perfetta armonia, quando mai s'incontrasse qualche difficoltà contraria all'esecuzione della Boila o del Breve, e si bramasse di saperne i motivi, dovranno i Ministri di Sua Maestà, con i chiarimenti bastevoli per appagare, informarne o il Ministro della Santa Sede residente in Torino, oppure i Ministri Apostolici residenti in Roma. Dalla semplice visura poi resteranno eccettuate le Bolle dogmatiche in materia di fede, le Bolle e i Brevi regolativi del ben vivere e de' santi costumi, le Bolle de' giubbilei e d'indulgenze, i Brevi della Sacra Penitenzieria, e le lettere delle Sacre Congregazioni di Roma, che si scrivono agli Ordinarii o ad altre persone per informazione.

IV. Per ben regolare l'implorazione del braccio secolare, che si fa alle volte dalla podestà ecclesiastica, e la concessione che di esso si fa dalla podestà secolare, nel Concordato più volte nominato del Pontefice Benedetto XIII, fu detto, che per isfuggire ogni occasione di nuove amarezze, ogni Vescovo, prima di portarsi alla sua Chiesa, dovesse andar ad usare un atto d'ossequio alla persona del Sovrano, implorando il braccio, che benignamente da essa se gli dovesse accordare; e per ben regolare l'atto pratico, fu aggiunto, che il Vescovo, in sequela della Regia concessione, domandasse al Giusdicente del luogo il braccio, senza l'obbligo di esprimere il nome della persona, o il titolo della causa, o la qualità della medesima, trattandosi di persone ecclesiastiche, e ciò tanto in civile quanto in criminale; e che trattandosi poi di persone laiche, non s'imputasse, se il Giusdicente del luogo, prima di concedere gli esecutori, richiedesse il nome e il titolo della causa, non meno in civile che in criminale; il che fatto, si concedesse immediatamente dal Giusdicente il numero degli esecutori necessari.

Si ammette ben volentieri, anzi si stimola ogni Vescovo, prima di portarsi alla sua residenza, ad usare col Re ogni atto di maggior convenienza, domandargli la sua Regia protezione, pregandolo d'incaricare a' suoi Giudici e Tribunali il somministrare l'aiuto necessario, acciò i suoi decreti e le sue sentenze siano eseguite; nel che consiste il braccio secolare di cui parlano i sacri Canon.

Non essendovi mai stata difficoltà, anzi essendosi sempre ammesso, che a tenore dei sacri Canon implorato che sia il braccio secolare, se ne faccia la con-

cessione, ed essendovi stati dispareri circa il tempo in cui dee implorarsi, si determina, che procedendo la podestà ecclesiastica contro qualche persona ecclesiastica o civilmente, o criminalmente, ed avendo bisogno del braccio secolare, ne faccia la richiesta, quando più le aggrada, cioè o nel principio, o nel mezzo, o nel fine dell'affare, senza necessità di esprimere o il nome della persona, o il titolo della causa, o la qualità della medesima, e che implorato in uno de' predetti tempi, debba servire per tutta la causa, e che procedendo contro qualche laico, lo debba implorare nel principio della causa, e che implorandosi allora per tutta la causa, gli accordi senza bisogno di nuova richiesta. Ora non si parla delle cause, nelle quali la podestà ecclesiastica può procedere anche contro i laici, ma bensì se ne parlerà nel seguente paragrafo VII: e però proseguendo la materia del braccio secolare, essendovi state altre volte querele, che dal laico si pretendeva di vedere e riconoscere il processo fatto dall' ecclesiastico, prima di accordare il braccio per l'esecuzione della sentenza; si determina, che o si tratti contro gli ecclesiastici, o contro i laici in que' casi, ne' quali essi sono sottoposti al Tribunale ecclesiastico, secondo il citato paragrafo VII, non si possa in verun modo dal laico pretendere qualsivoglia ispezione, o delibazione del processo fatto dall' ecclesiastico, avanti di accordare il braccio per l'esecuzione della sentenza. Finalmente, per buon servizio della giustizia dovrà ogni Tribunale Vescovile avere e ritenere a suo piacimento un cursore per prevalersene negli atti giudiziali, che farà o contro qualche ecclesiastico, o contro qualche laico in quelle cause, nelle quali può procedere contro esso giusta ciò che di sopra è stato accennato, e che diffusamente dirassi nel più volte citato paragrafo VII; nè per far agire questo cursore dovrà in verun modo implorare il braccio secolare.

Fra le cause, nelle quali procede il Giudice ecclesiastico contro i laici privatamente, nel paragrafo VII susseguente si annoverano, oltre le altre, le cause di fede, e le cause matrimoniali, nelle quali si tratta sopra la validità, o invalidità sì del matrimonio, come degli sponsali. E benchè poc' anzi siasi detto, che nelle cause nelle quali la podestà ecclesiastica procede contro i laici debba il braccio secolare implorare nel principio; nelle predette cause però di fede, e matrimoniali, potrà implorarsi, o nel principio, o nel mezzo, o nel fine, come si è detto potersi fare nelle cause nelle quali si procede o civilmente o criminalmente contro gli ecclesiastici: e che implorato in uno de' predetti tempi, serva per tutta la causa.

Inoltre, acciò le curie ecclesiastiche abbiano un più largo campo di esercitare la loro giurisdizione, potrà ciascheduna delle medesime ritenere le proprie carceri, se le aveva, e farle custodire, e costruirne anche delle nuove, e farle custodire, se prima non le aveva, con questo però, che volendole costruire di nuovo, ne faccia una dichiarazione di costruirle dentro un giusto termine da convenirsi colla podestà laicale, e nel quale è d'uopo aver riguardo alla quantità delle rendite di ciaschedun Vescovado: e quando prevalendosi i Vescovi delle proprie carceri, non le credessero in qualche caso sufficientemente custodite, o alcuni non avendole, o non volendole fabbricare, restassero senza comodo della custodia de' rei, prega la Maestà del Re di Sardegna a permettere, che nell' uno e nell' altro caso siano i rei tratti in custodia o disposizione dell' ecclesiastico nelle carceri laicali.

V. Nel progetto d'accomodamento col Pontefice Benedetto fu preservata ai Vescovi l'autorità di visitare i luoghi pii, come prescrive il Sacro Concilio di Trento. Sa ciascheduno avere il Sacro Concilio di Trento fatti i Vescovi, anche come delegati della Sede Apostolica, esecutori di tutte le pie disposizioni, aver dato loro il *ius* di visitare gli spedali, tutti i collegi, confraternite, e scuole, limosine del monte di pietà, tutti i luoghi pii, ancorchè la cura di essi appartenesse ai laici, e ancorchè fossero muniti con privilegio d'esenzione, eccettuando dalla visita solo que' luoghi, che sono sotto l'immediata Regia protezione, nel qual caso richiede la licenza del Re: e lo stesso Sacro Concilio passando avanti, stabilisce, che gli amministratori ecclesiastici e laici di qualsivoglia chiesa, confraternita, e qualsivoglia luogo pio, siano obbligati a render conto della loro amministrazione all'Ordinario ogni anno, derogando a qualsivoglia consuetudine, o privilegio, ed eccettuando il solo caso in cui fosse stati nella fondazione stabilito il contrario; dichiarando, che se per consuetudine, privilegio, o costituzione si dovesse dagli amministratori render conto ad altri, debba ciò farsi, ma però sempre chiamato l'Ordinario, e che le quietanze fatte agli amministratori loro non suffraghino, che reso il conto nel modo predetto. Dovendosi dunque osservare il Sacro Concilio di Trento, si dichiara, non essere esenti dalla visita

dell' Ordinario se non quei luoghi, che sono sotto l'immediata Regia protezione; e non dirsi esser sotto l'immediata Regia protezione, se non quei luoghi che sono stati fondati coi beni del Regio patrimonio, o quelli nella prima fondazione dei quali è stata dal fondatore implorata e ottenuta la Regia protezione, e non mai gli altri luoghi che non essendo stati fondati coi beni del Regio patrimonio, o essendo stati fondati da altri, senzachè fossero dal fondatore sottoposti alla Regia protezione, la Regia protezione dopo la fondazione fosse stata implorata e ottenuta: e circa il rendimento de' conti, che deve farsi dagli amministratori tanto ecclesiastici, quanto laici, ogni anno al Vescovo, Sua Santità dichiara, che ritrovandosene qualcheduno poco atto, o poco fedele nell' amministrazione, debba l'Ordinario poterlo licenziare deputando anche a suo piacimento chiunque del luogo pio egli credesse a proposito, acciò invigili al pagamento, convenendo il debitore ecclesiastico nel Tribunale ecclesiastico, e il debitor laico nel Tribunale laico: nel qual caso si spera dalla giustizia di Sua Maestà, che non lascerà di dare gli ordini opportuni e pressanti, acciò i debitori laici siano astretti al pagamento coi mezzi più pronti e sommarii.

VI. Eccitatosi la pretensione di voler astringere al pagamento i beni catastati nell' anno 1606 in sequela d'un editto allora pubblicato dalla podestà laicale, e rinnovato nel 1640, benchè fossero di poi passati nelle mani degli ecclesiastici, e diventati fossero fondo di benefizi, di collegiate, e d' altre simili cose, o di voler far pagare chi non aveva pagato, come pure di voler esigere i detti pesi laicali dai patrimoni sacri tanto costituiti, quanto da costituirsi; nel Pontificato del Pontefice Benedetto XIII fu convenuto, che si pubblicasse una Regia Notificazione, nella quale si dicesse; primo, che essendosi Sua Maestà intesa colla Sede Apostolica, fossero sottoposti a tutti i pagamenti i beni che erano catastati nel 1620; secondo, che si condonasse tutto l'arretrato sino al giorno della Notificazione; terzo, che non si pretendesse verun pagamento dai patrimoni sacri già costituiti sino al giorno pure della Notificazione, essendosela Sua Maestà intesa colla Sede Apostolica.

Coerentemente a ciò fu concordata la minuta della Notificazione in tutto e per tutto concorde alle parole poc' anzi riferite; e perchè tanto il Concordato quanto la minuta risguardano il Piemonte; e nel Monferrato, a cui non è applicabile il convenuto circa il Piemonte, si ritrovano quattro altri tributi, il primo chiamato ordinario, ed imposto sino dall' anno 1320, il secondo chiamato tasso della Cittadella, ed imposto l'anno 1599, e gli altri due chiamati delle caserne, e degli accordi imposti negli anni susseguenti; fu parimente concordato, che per il Monferrato si facesse una distinta Regia Notificazione in tutto e per tutto del tenore della minuta fatta per il Piemonte.

Come pur troppo è noto, sopra questa parte del Concordato si sono eccitate varie controversie, non volle il Pontefice Benedetto ammettere l'autorità laicale nell' imposizione dei detti pesi: periochè fu espressa la data de' pagamenti, cioè il 1620, che è data differente da quella degli editti. La podestà laicale stette ferma nella sua pretensione d'aver potuto imporre i detti gravami infissi ai beni, e che gli accompagnassero in qualunque mano passassero. Fu preso dal Pontefice il mezzo termine, che nel Concordato si facesse anche menzione della sua autorità, l'intervento della quale leva ogni pregiudizio dell' autorità e giurisdizione ecclesiastica: e prescindendo dalla decisione della controversia, e compassionando lo stato dei laici resi impotenti ai pagamenti per li molti acquisti fatti dagli ecclesiastici, si convenne, come si è veduto di sopra.

Per terminare ogni controversia che possa restar in ordine ai sopradetti pagamenti, dovrà ogni Vescovo pubblicare nella sua Diocesi una sua Notificazione, nella quale si dice, che se mai qualche persona, collegio, università ecclesiastica, sì secolare, che regolare, in occasione della Regia Notificazione dell' anno 1727 non avesse per mancanza de' necessari documenti o per altra cagione potuto giustificare, che possedeva qualche quantità de' beni immuni prima del 1620, ed ora fosse in istato di provarlo, lo faccia dentro il termine di due anni, da incominciarsi dal dì della pubblicazione del presente Trattato, portando a lui le sue rimozioni in iscritto, appoggiate ad autentici e vevoli documenti, con sicurezza, che essendo tali, non lascerà di presentarle a Sua Maestà, da cui è certo che sarà fatta la giustizia.

VII. Acciò poi sia libero l'esercizio dell' autorità e giurisdizione ecclesiastica a pro de' Vescovi pel governo del gregge alla lor cura commesso, dovranno essi godere ogni piena libertà di visitare la Diocesi, e terminata la visita, di convocare li sinodo senz' obbligo di dover prendere veruna licenza; di potere senza

veruna licenza pubblicare editti; di poter pure senza veruna licenza venire *ad limina*, potendo essere sicura la Maestà del Re, che nè verun Vescovo, nè veruna persona ecclesiastica partirà da' suoi Stati, et si allontanerà dal suo dominio senza l'ossequiosa convenienza verso di lui.

Saranno di privativa cognizione della sola podestà ecclesiastica le materie di Fede, i delitti di eresia, se qualche laico avrà la sacrilega temerità di celebrare la santa Messa, o di esercitare altre funzioni all'ordine sacro appartenenti, o d'ascoltare le sacramentali confessioni, dovendo in questi casi essere privatamente processati, e puniti dalla sola podestà ecclesiastica. Accadendo il furto di qualche sacra pisside colle Particole consecrate, o qualche delitto di bestemmia, se dal processo risulterà, che il reo laico sia sospetto di eresia, dovrà il Giudice laico rimetterlo al Giudice ecclesiastico, *ut procedat super haeresi*, e proferitasi dal Vescovo la sentenza o assolutoria *ab haeresi*, o condannatoria, dovrà poi colla solita protesta del cap. *Praelatis. De homicidiis in sexto* consegnarsi il reo al Giudice laico, *ut procedat ad ulteriora*.

La cognizione e punizione del delitto di poligamia parimente apparterrà alla sola podestà ecclesiastica.

Spetteranno parimente ai soli Giudici ecclesiastici privatamente le cause matrimoniali, nelle quali si tratti sopra la validità o invalidità sì del matrimonio, come degli sponsali.

Così pure saranno di privativa giurisdizione ecclesiastica le cause decimali e benefiziali, quando si deve assumer disputa sopra il titolo, giusta ciò che di sopra si è detto: e quanto alle benefiziali ancor quelle nelle quali si tratta di iuspatronato, purchè però non si tratti di iuspatronati Regii, o feudali, e che oltre ciò la loro decisione principalmente dipenda dal vedere, se il padronato sia annesso, o no, al feudo, o *de universitate bonorum* in patronati laicali.

Apparterrà pure alla sola podestà ecclesiastica il giudicare de' sacri riti e delle precedenzae nelle funzioni ecclesiastiche, come di sopra si è detto; e quanto all'osservanza delle Feste potranno i Vescovi procedere contro i trasgressori colle dovute pene, quando ad essi per giusta e legittima causa non avessero conceduta licenza di poter fare ne' dì di festa alcune opere servili, avvertendogli di concedere le dette licenze non per lievoli, ma rilevanti motivi, e senza esigere verun pagamento, e di non inquietarsi, o muover querela, se il Tribunale laico castighi i trasgressori delle sopradette feste di precetto.

Saranno finalmente di privativa cognizione della podestà ecclesiastica le cause anche civili, quando saranno fra le persone ecclesiastiche, e quando la persona ecclesiastica sarà rea.

Non dovrà porsi impedimento alcuno alla podestà ecclesiastica di procedere contro i laici, secondo la disciplina della Chiesa e le regole canoniche, con sole pene spirituali, anche di censure contra de' peccatori pubblici e scandalosi, e precise contra de' sacrileghi, degli adulteri, de' concubinari, degli usurai, de' bestemmiatori, e consimili.

Sua Santità resta accertata, che i Tribunali laici non prendono veruna ingerenza nelle cause eriminali contro le persone ecclesiastiche, che sanno essere pienamente sottoposte alla giurisdizione de' loro Ordinarii; e però commettendosi da qualche persona ecclesiastica contrabbando, o fraude, in pregiudizio del Real Fisco, non potrà essere la persona ecclesiastica arrestata, o carcerata dalla podestà laicale. S'incarica bensì al Vescovo d'invigilare con ogni maggior diligenza e attenzione, acciò dalle persone ecclesiastiche simili eccessi, troppo disdicevoli al loro carattere, non siano commessi, e commessi che siano, non restino senza il dovuto castigo, acciò la podestà laica non abbia a lamentarsi della connivenza del Giudice ecclesiastico.

VIII. Per buon servizio della giustizia che deve amministrarsi nei Tribunali ecclesiastici nelle cause ed affari poc'anzi espressi, non sarà impedito a verun laico il comparire ne' Tribunali ecclesiastici a far l'uffizio di testimonio, quando ve ne sia il bisogno; oltre il cursore, del quale di sopra si è parlato, potranno i Vescovi ed Ordinarii ritenere per gli atti delle loro curie que' Notai Apostolici che loro più piaceranno, ancorchè non siano descritti nel catalogo de' Notai Regii, come si è anche praticato per lo passato. Essendosi coerentemente ai desiderii di Sua Santità avuta l'annuenza da Sua Maestà il Re di Sardegna, potranno i Procuratori laici del Senato comparire senza la di lui licenza ne' Tribunali ecclesiastici; e lo stesso pure praticherassi in ordine a tutti gli altri Procuratori e Avvocati.

Nel trattare e decidere le controversie, sappiano i Vescovi, che sono obbli-

gati a non iscostarsi dal tenore de' sacri Canoni e delle Costituzioni Apostoliche. Proferita poi dal Vescovo la sentenza, non sarà frapposto alcun ritardo o impedimento contro l'esecuzione, nè sarà impedito il corso dell' appellazione secondo i sacri Canoni ai Giudici superiori, ancorchè le cause dovessero essere estratte dal dominio di Sua Maestà: nè sarà permesso, che nelle città suffraganee vi siano uffiziali di Metropolitani per riceverne le appellazioni, essendo ciò contrario alle determinazioni della Santa Sede e de' Sommi Pontefici.

Aleune altre cose hanno cagionato per lo passato qualche fomento di dissensioni, essendo asserito, che restavano impedito le confraternite di aggregarsi alle arciconfraternite di Roma per essere ammesse a partecipare delle sante Indulgenze, e che la podestà laica voleva ingerirsi nelle erezioni di nuovi benefizi, riserve de' padronati, ed ampliamenti di chiese piccole, o ristaurazioni delle vecchie; ed essendo stato detto, che ciò non sussisteva in fatto nella maggior parte delle suddette cose, si avverte ai Vescovi ed agli Ordinarii, che senza l'obbligo di chiedere veruna licenza potranno le confraternite delle, loro Diocesi domandare le aggregazioni alle arciconfraternite di Roma per conseguire il frutto delle sante Indulgenze, e che nell'istesso modo si potranno erigere benefizi, riservare padronati, ampliare chiese piccole, ristaurare le vecchie, osservare però le debite regole in ciò prefisse da' sacri Canoni e Costituzioni Apostoliche.

IX. Essendo pur troppo cresciuta la malizia degli uomini, e desumendo i cattivi contro la espressa intenzione de' sacri Canoni e delle Costituzioni Apostoliche facilità di commettere delitti pel pronto confugio alle chiese ed ai luoghi immuni, non godranno per l'avvenire del beneficio dell'asilo tutti i seguenti:

Gli omicidi, non solo se l'omicidio sia proditorio, giusta il gius comune, e la Bolla Gregoriana, ma ancora se sarà appensato, giusta la bolla della Santa memoria di Benedetto XIII, che incomincia *Ex quo Divina*: non dovendo più godere del beneficio dell'asilo se non chi commette omicidio casuale, o per propria difesa, *cum moderamine inculpatæ tutelæ*, estendendo Sua Santità ai domini del Re di Sardegna la Bolla *In supremo institutæ solio* della Santa memoria di Clemente XII.

Gl' incendiarii, cioè coloro che *dolo malo, et data opera*, metteranno o faranno metter fuoco, o che *scienter* daranno aiuto o consiglio a chi mettesse fuoco a qualunque chiesa, luogo sacro o religioso, o a qualunque casa abitabile, sita tanto in città e luoghi abitati, quanto fuori di essi; come altresì ai tugurii costrutti *ad instar domorum*, soliti abitarsi da' contadini o pastori, o sopra gli armenti e le greggie, alle vigne, seminati, oliveti, selve, o qualunque altro podere alberato, coltivato e fruttifero.

I ricattatori, cioè a dire coloro i quali conducono e trasportano violentemente o dolosamente, *de loco ad locum*, uomini e donne, ivi ritenendoli per obbligargli a riscattarsi: come altresì coloro che per via d'ambasciate o lettere chieggono danaro, o altra cosa, con minaccia di ammazzare le persone, o d'incendiar i beni di quelli ai quali son dirette, in caso che non facciano quel che chieggono.

Coloro che *scienter, dolo malo et animo nocendi*, compongono, vendono e propinano il veleno, quantunque non sia seguita la morte della persona che voleva avvelenarsi, e nè tampoco abbia la medesima in effetto per qualche fortunato accidente preso il veleno.

Coloro che fanno assassinare, o per commissione data loro assassinano, o che ai suddetti scellerati danno aiuto o consiglio, quantunque non vi sia seguita la morte, purchè però *deventum fuerit ad actum proximum, hoc est ad insultum, ita ut intervenerit vulnus*. I grassatori e ladri di strade pubbliche e vicinali, anche per la prima volta che commettessero un tal delitto, quantunque senza alcuna offesa della persona del dirubato.

Coloro che di notte tempo aprono con chiavi false, o adulterine, con grimaldelli, ed altri strumenti le porte delle case, botteghe, fondachi o magazzini, o pure che rompono o bruciano le suddette porte, o che entrano in tali suddetti luoghi per i tetti, o finestre, o per aperture fatte nelle muraglie, o rubano tanta quantità, per la qual cosa meritano, secondo le leggi comuni, o municipali, la morte.

Così parimente coloro che in tempo di notte sotto nome di corte, o con falsi pretesti d'essere ministri della giustizia, si fanno aprire dagli abitatori le porte delle case, ed ivi entrati rubano, o fanno violenza all'onestà delle donne di detta casa.

I falsificatori di cedole, o siano fedi di credito, o di altre scritture de' pubblici banchi, come altresì coloro che falsificano ordini, per mezzo de' quali in

pregiudizio della pubblica fede esigono danaro d'altri depositato ne' pubblici banchi.

I mercatanti fraudolentemente decotti, i quali fingendo d'esser falliti, nascondono il loro avere in frode de' loro creditori.

I Regii Tesorieri, ed i Percettori-Generali, i quali, ritenendo o ricevendo danaro Regio dagli uffiziali inferiori, o da altri debitori della Regia Camera per trasmetterlo alla cassa generale, commettono furto o falsità in somma, che abbia luogo la pena ordinaria, così pure il Cassiere maggiore, e gli altri uffiziali e ministri de' pubblici banchi, che rubano da quelli il danaro in tanta quantità che per ciò debbano soggiacere alla pena ordinaria. I Conservatori de' pegni, e gli altri uffiziali e ministri de' pubblici monti, che rubassero i pegni in tanta quantità, da dover soggiacere alla medesima pena; e per ultimo coloro, i quali essendo pubblici cassieri delle università rubano il danaro dalla cassa pubblica nella stessa notevole e punibile quantità.

Tutti i delinquenti, o rei di delitto di lesa Maestà, nel primo e secondo capo. E nel secondo capo, per quello che appartiene ad offese personali fatte a' ministri ed uffiziali per ragion del loro uffizio, debbano intendersi compresi coloro solamente, i quali facessero offesa personale, e non verbale, a que' ministri ed a quegli uffiziali, che amministrano giustizia, ed esercitano giurisdizione comunicata loro immediatamente dal Sovrano, e non già dagli utili padroni e baroni de' luoghi.

Coloro che per forza estraggono, e fanno estrarre i rei dalla chiesa o da qualsivoglia altro luogo immune.

Coloro che tanto nelle chiese, quanto nei cimiteri, o in qualunque altro luogo immune, commettono omicidii, mutilazioni di membri, o qualsivoglia altro delitto, per cui *de iure communi intrat poena sanguinis, aut tiremium*, come altresì coloro che usciti dalle suddette chiese e luoghi immuni, commettono i medesimi delitti.

Coloro che si abusano del confugio anche per la prima volta, si estraggano da quello d'ordine del Vescovo, e d'ordine del medesimo si trasportino in altra chiesa, nel qual trasporto non possano essere molestati dalla curia secolare *sub poenis violatae immunitatis*; e s'intimi loro, che, abusandosi del confugio per la seconda volta, sarà dichiarato dal Vescovo, che non godono più veruna sorta di immunità ecclesiastica. E affinché da' Vescovi possa farsi speditamente una tal dichiarazione, sarà da Sua Santità conceduta loro una volta per sempre la facoltà, acciocchè non debbano in ciascun caso che potrà occorrere di doverne far uso, scriverne in Roma per ottenerla.

X. Per l'avvenire non goderanno dell'immunità i seguenti luoghi.

Le chiese rurali esistenti fuori delle città e luoghi abitati, nelle quali non si conserva il Venerabile, eccettuatene le parrocchie, e le chiese filiali delle medesime, nelle quali si esercita la cura delle anime, con dichiarazione, che tanto rispetto alle suddette chiese rurali riserbate, quanto a riguardo di tutte le altre chiese che sono in città e altri luoghi abitati, non debba il beneficio dell'asilo distendersi, quanto all'esteriore, ad altro, che all'atrio, quando sia circondato di muro o portici, scale e porte tanto anteriori che laterali, e alla facciata anteriore solamente.

Le cappelle e gli oratorii esistenti nelle case dei particolari e magnati, quantunque abbiano privilegio di cappelle pubbliche, et l'adito in istrada pubblica. Così parimente tutte le cappelle delle fortezze, e castelli chiusi, ancorchè si conservi in esse il SS. Sacramento.

I campanili separati dalle chiese e dalle muraglie di esse.

Le chiese dirute e abbandonate, colla precedente profanazione, che si ordinerà a' Vescovi e Ordinarii de' luoghi rispettivamente di fare.

Gli orti e giardini, e altri luoghi di chiese e di qualsivoglia altra casa religiosa, i quali non sono circondati da muraglie, e non sono compresi nella clausura.

Le botteghe e le case attaccate alle muraglie delle chiese, o de' monisteri, o di qualsivoglia altra casa religiosa, quantunque abbiano interna comunicazione colle medesime, purchè non siano comprese nella clausura.

Le case in cui abitano i Sacerdoti o altri ecclesiastici, ancorchè abbiano l'ingresso nella chiesa, eccettuatene però le case ove abitano Parochi ed altri ecclesiastici destinati alla cura e custodia della chiesa, purchè bensì tali case si abitino da essi stessi, e non da altri: le quali avendo l'immediata comunicazione interiore colla stessa chiesa, godranno del sacro asilo, non ostante che abbiano la porta coll'uscita in istrada pubblica.

XI. Rifugiandosi nel luogo immune qualcuno dei delinquenti laici supposto reo di eccezzuato delitto, ad ogni istanza e richiesta del laico Magistrato, cogli indizi *ad capturam*, concedasi da' Vescovi, e loro Vicarii Generali in città, e negli altri luoghi da' Vicarii foranei, ed in mancanza di questi dalla persona ecclesiastica più degna, che fa figura di superiore nel luogo, la licenza di trarlo dal sacro asilo, coll' intervento di persona ecclesiastica da destinarsi da' medesimi, e si consegnì alla curia secolare coll' obbligo giurato *in scriptis* di ritenere il reo *nomine Ecclesiae*, e di restituirlo alla Chiesa in caso si decida che debba goderla, e non restituendosi, rimanga al Vescovo la facoltà di procedere contro del Magistrato secolare colle pene canoniche di violata immunità.

Nel caso, che rispetto agli accennati delinquenti detta licenza fosse negata dopo ricercata nel modo detto di sopra, sia lecito al Giudice laico, senza timore d'incorrere nelle censure, estrarre il delinquente con tutta modestia e senza scandalo, coll' obbligo però in iscritto come sopra, da trasmettersi alla curia ecclesiastica del Vescovo.

Costituito il reo nelle carceri laicali, si formi dal Giudice secolare il processo informativo sopra il delitto, e nel termine di quattro mesi si esibisca alla curia del Vescovo: e questi dentro il termine di un mese debba dichiarare se il reo goda o no.

Quando poi il Giudice laico fra lo spazio di quattro mesi non esibisca il processo, dovrà il Vescovo richiederlo per la restituzione del reo alla chiesa: la qual restituzione non potrà dal Giudice laico ritardarsi a forma dell' obbligo fatto nell' atto della consegna.

Perchè possa il Vescovo dichiarare, che l'inquisito non goda del beneficio dell' asilo, bastino gl' indizi *ad torturam*.

Dichiarandosi dal Vescovo, che il reo non goda, in tal caso debba cessare l'effetto dell' obbligo fatto dal Giudice laico nell' atto della consegna detto di sopra; e all'incontro dallo stesso Giudice laico dovrà farsi nuovo obbligo del tenore di quello detto di sopra, di rimettere il reo in chiesa, qualora il medesimo abbia nelle sue difese purgati gl' indizi sopra la qualità che rende il delitto eccezzuato, restando ciò a carico della coscienza dello stesso Giudice laico.

Che sotto nome di Vescovi s'intendono i veri Vescovi, e non già i Prelati inferiori di qualunque specie, quantunque abbiano proprio e separato territorio, e giurisdizione quasi episcopale, dovendosi per tali luoghi esenti ricorrere o al Vescovo diocesano, se il luogo è nella Diocesi, oppure al viciniore: alla riserva bensì di que' Prelati inferiori, che avessero ottenuto od ottenessero dalla Sede Apostolica uno speciale indulto di procedere in queste cause d'immunità locale.

XII. A coloro che si rifugiano nelle chiese o luoghi immuni, i Vescovi, i Vicarii foranei, o chiunque fa figura di superiore ecclesiastico in città, o in qualunque altro luogo della Diocesi, facciano subito togliere le arme, implorando, quando vi sia di bisogno, il braccio della curia secolare, la quale facendo istanza ai suddetti superiori ecclesiastici, che si levino le arme della chiesa, e luoghi immuni, sieno tenuti i medesimi dare la licenza di estrarle coll' intervento di persona ecclesiastici; e non volendosi accordare da' suddetti superiori ecclesiastici la licenza, sia lecito alla podestà secolare estrarre le dette arme, le quali anche nel caso che si tolgano ai rifugiati da' superiori ecclesiastici, dovranno consegnarsi al Magistrato laico, premessa la protesta da farsi dalla medesima persona ecclesiastica, a tenore del cap. *Praelatis. De homicidiis in sexto*.

Qualora dovrà farsi qualche perquisizione in chiesa o in altro luogo immune di cosa rubata, o di contrabbando, o di scrittura, o di danaro, o robe occultate da' contumaci, o che in qualunque maniera possano al fisco appartenere, dovranno i ministri (senza però essere tenuti a manifestare il luogo preciso e individuo) chiederne la licenza a' superiori ecclesiastici, la quale dovrà accordarsi in città dal Vescovo, e in tutti gli altri luoghi della Diocesi dai Vicarii foranei, ed in loro mancanza dalla persona più degna, che fa figura di superiore ecclesiastico, eccezzuati però i monasterii di monache ed i conservatorii di donne. Ottenuta la licenza, si farà la perquisizione coll' intervento di persona ecclesiastica; e ritrovandosi contrabbando, o roba rubata, o qualunque altra roba, o cosa delle dette di sopra, premessa dalla medesima persona ecclesiastica la protesta da farsi a tenore del cap. *Praelatis. De homicidiis in sexto*, si estrarrà, e si consegnerà alla curia laicale; anzi, che chiedendosi dalla medesima la licenza suddetta ai superiori ecclesiastici, se le fosse negata, potrà in tal caso da se stessa procedere alla detta perquisizione ed estrazione, senza timor d'incorrere nelle

censure, a riserva però sempre, come sopra, de' monasterii di monache e de' conservatorii di donne.

XIII. Appartenendo, conforme di sopra si è detto, al Vescovo il dichiarare, se il reo goda, o non goda, del beneficio dell' immunità, e dovendo, come pure di sopra si è detto, lo stesso Vescovo, dentro il termine di un mese dal dì che gli sarà stato consegnato il processo dal Giudice laico, proferire la detta sentenza; inoltre potendosi dar il caso, che dentro il predetto mese non si proferisca dal Vescovo la sentenza, o che nella discussione di queste cause, ad istanza o del fisco ecclesiastico, o del fisco laico sia d'uopo l'ordinare, che s'impingui il processo, o che si faccia un nuovo processo, acciò la giustizia abbia libero il suo corso, e non sia esposta alle frequenti mutazioni de' Giudici; la Santità di Nostro Signore deputa Monsignor Arcivescovo di Torino, dandogli ogni facoltà opportuna e necessaria per decidere la causa, se non sarà stata decisa dal Vescovo dentro il mese stabilito, come pure in caso di qualche differenza, che insorga per ordinare l'impinguazione del processo, o confezione del nuovo. Deputa pure, e dà le facoltà opportune e necessarie al predetto Monsignor Arcivescovo, acciò possa ricevere le appellazioni dal giudicato del Vescovo sopra il punto dell' immunità locale, costituendolo Giudice nella detta materia di seconda istanza; e trattandosi di sentenza proferita dal predetto Monsignor Arcivescovo di Torino, da cui una delle parti volesse reclamare, o che la sentenza non fosse stata da esso proferita dentro il mese, o che in una causa pendente avanti di lui insorgesse qualche differenza circa l'impinguar il processo, o farne un nuovo; il tutto si divolva al Vescovo di Saluzzo, cui Sua Beatitudine conferisce tutte le facoltà opportune e necessarie, per essere Giudice di seconda istanza in questi casi, come pure al Vescovo d'Ivrea in caso di vacanza, o d'impedimento dell' Arcivescovo di Torino o del Vescovo di Saluzzo.

Trattandosi di materia, nella quale con l'individuazione dei casi e de' luoghi in cui deve, e non dee rispettivamente aver luogo l'immunità, presentemente si ritrova ogni chiarezza; e di materia che richiede pronto distirgo per servizio della giustizia, si determina, che i sopraddetti Giudici delegati, e che procedono in seconda istanza, procedano inappellabilmente e privatamente a qualunque Ministro Giudice, o Tribunale tanto ecclesiastico che laico, sia di qualsivoglia rango, anche di Monsignor Nunzio, o di qualsivoglia altro Giudice Ministro, che pretendesse procedere per via di Regia protezione o economica provvidenza.

XIV. Non essendovi cosa, che coll' assistenza dell' aiuto Divino più conferisca alla pace fra la podestà ecclesiastica e la podestà secolare, che la vita innocente degli ecclesiastici, e conferendo molto a questo intento il tener gli occhi aperti, come anche vien prescritto da' sacri Canonici, allora che si tratta di ammettere qualcheduno al chiericato, come pure che gli ammessi al chiericato vivano in un modo che si rendano degni de' privilegi chiericali, e di ascendere agli ordini superiori; si prescrivono in questo e nel seguente paragrafo alcune regole da osservarsi inviolabilmente dai Vescovi e Ordinarii de' luoghi.

Niuno potrà essere da or innanzi promosso alla prima tonsura, se non che a titolo di beneficio o cappellania perpetua, le cui rendite, detratti i pesi, ascendano almeno alla metà della tassa stabilita pel patrimonio sacro della Diocesi del promovendo.

Giudicando qualche Vescovo veramente utile o necessario alla Chiesa, conferire la prima tonsura a qualche giovane, benchè non abbia verun beneficio, potrà farlo, ma nel solo caso che abbia il medesimo una pensione ecclesiastica perpetua, della rendita che ascenda almeno alla metà della tassa stabilita pel patrimonio sacro nella sua Diocesi, o l'intero patrimonio: il quale per evitare qualunque frode e inganno, non potrà costituirsi d'or innanzi, che unicamente sopra i beni stabili, o sopra annue rendite fisse, e dovrà regularsi a tenore della tassa sinodale di ciascheduna Diocesi, purchè non sia esso patrimonio nè in minor somma di ventiquattro ducati, nè in maggior di quaranta.

Oltre al requisito del beneficio, cappellania perpetua, o pensione ecclesiastica perpetua nella maniera spiegata di sopra, o dell' intero patrimonio, a niuno potrà conferirsi la prima tonsura, il quale dopo aver terminati dieci anni di sua età, non sia andato a dimorar almeno per un triennio in qualche seminario o convitto ecclesiastico: e dove ciò non possa farsi, non abbia almeno portato per tre anni l'abito chiericale con licenza del proprio Ordinario, e in tutto il triennio, o almeno per la maggior parte delle feste di precetto di ciascuno de' ter

anni non abbia servito a qualche chiesa nella maniera che gli sarà dal proprio Vescovo prescritta, scomputando questo servizio colla dimora che avrebbe dovuto fare in qualche seminario o convitto ecclesiastico.

Volendo qualche giovane condursi in qualche pubblica Università, o in altro luogo, affine d'ivi applicarsi alle scuole ed agli studii, potrà farlo, ed il tempo che ivi dimorerà, potrà servirgli di requisito, affine di prendere la prima tonsura, come se stesse in un convitto ecclesiastico; purchè però lo faccia colla permissione del proprio Vescovo, e colle sue lettere commendatizie si presenti al Vescovo del luogo, e colla direzione di questo si faccia assegnare al servizio di qualche Chiesa, portando l'abito chiericale, e prestando quivi per un triennio, o almeno per la maggior parte di ciascuno de' tre anni come sopra quel medesimo servizio alla Chiesa assegnatagli, che presterebbe dimorando nella propria Diocesi: con condizione espressa, che volendo esser iniziato alla prima tonsura, debba ottenere le lettere testimoniali del Vescovo del luogo dove ha dimorato, *de vita, et moribus*, e di aver esattamente adempito quanto gli è stato prescritto: a vista delle quali potrà essere promosso.

Da qual obbligo si debbono eccettuare solamente coloro che sono artati, cioè a dire, che sono chiamati in virtù della fondazione a qualche beneficio, o a qualche cappellania ecclesiastica vacante: i quali potranno promuoversi alla prima tonsura, quantunque non abbiano potuto osservare le regole prescritte, cioè, la delazione dell' abito chiericale, la frequenza delle scuole e dei sacramenti, ed il servizio triennale della Chiesa, e quantunque non abbiano l'età di sopra determinata, ove si tratti di benefizii fondati prima del Sacro Concilio di Trento: con dichiarazione in oltre, che dalle disposizioni di sopra accennate s'intendano eccettuati coloro che sono artati, nel solo caso in cui il beneficio o la cappellania sia veramente ecclesiastica, cioè fondata coll' autorità ecclesiastica perpetua, e debba provvedersi *titulo collativo*, o d'istituzione, e che i padroni di esse non possano differire oltre al tempo stabilito dai sacri Canonici la nomina e presentazione ai medesimi: e con condizione finalmente, che le rendite di detti benefizii e cappellanie ecclesiastiche debbano, detratti i pesi, costituire almeno la metà di quello che importa la tassa del patrimonio sacro stabilita nella propria Diocesi del promovendo.

E perchè talvolta, essendo molti chiamati allo stesso beneficio o cappellania ecclesiastica, sono gli Ordinarii costretti a conferire a tutti la prima tonsura, affine di rendergli capaci del beneficio e della cappellania, d'onde ne siegue l'inutile molteplicità de' chierici, non potendo il beneficio o la cappellania conferirsi, che ad un solo; perciò, quando questo accada, da or innanzi basterà, che presentandosi nel tempo congruo avanti il proprio Ordinario coloro che pretendono aver diritto al controverso beneficio o cappellania, e ritrovandosi dal medesimo idonei, così *quoad scientiam*, che *quoad bonos mores*, e che non abbiano impedimento canonico per essere promossi alla prima tonsura, spedisca loro le lettere testimoniali sopra la detta idoneità, e di non aver impedimento canonico, per esser promossi alla prima tonsura, in virtù delle quali potranno essi istituire la loro pretensione, e proseguire la causa avanti al Giudice ecclesiastico, anche in concorso de' chierici pretendenti, appunto come se avuta avessero già la prima tonsura, la quale potrà poi conferirsi a colui che terminata la causa avrà ottenuto il beneficio o la cappellania, riputandolo a tal effetto artato, e facendogli goder que' privilegi che ai medesimi di sopra sono stati conceduti.

XV. Dopo essere stati così ordinati alla prima tonsura, dovranno tutti i chierici, compresi anche gli artati, seriamente applicarsi così allo studio come alle opere di pietà per rendersi degni d'ascendere agli ordini sacri, avendo l'età legittima: al qual effetto dovranno continuare a dimorare in qualche Seminario o Convitto ecclesiastico, e non potendo ciò fare, dovranno almeno prestare per ogni anno, o per la maggior parte di esso, come sopra, nella Chiesa loro assegnata dal proprio ordinario, quel servizio che dal medesimo verrà loro prescritto: o dimorando in qualche Università, o altro luogo per proseguire le scuole e gli studii, dovranno adempire quelle medesime cose di sopra ordinate per coloro che debbono essere iniziati alla prima tonsura.

Dovranno tutti i chierici così di prima tonsura, come d'ordini minori, far constare nel principio d'ogni anno avanti gli Ordinarii de' luoghi ne' quali hanno il domicilio, d'aver osservati i requisiti del Sacro Concilio di Trento intorno all' abito e tonsura chiericale, e interno a tutte le altre cose stabilite di sopra; e ciò mediante l'attestazione del proprio Rettore, e Superiore del Seminario, o convitto ecclesiastico per quelli, che sono in seminario o in convitto ecclesi-

astico, e per quei chierici che non sono in seminario, nè in Convitto ecclesiastico, mediante le attestazioni dei Parrochi, Rettori delle Chiese alle quali sono ascritti, intorno alla delazione dell'abito e tonsura chiericale, frequenza dei sacramenti e servizio della Chiesa, e colle attestazioni dei Maestri e Lettori intorno alla continuazione delle scuole e studii, ed alla delazione dell'abito e tonsura chiericale; ed all'incontro dovranno gli stessi Ordinarii tener pubblicamente appesa nella sagrestia della loro Cattedrale, affinchè possa da tutti leggersi, una tabella, in cui, dopo di aver riconosciuta la sussistenza delle dette attestazioni, le quali dovranno rimaner nella loro cancelleria, faranno scancellare dalla medesima ogni anno i nomi di coloro che ritroveranno non aver esattamente osservati i requisiti predetti, e per lo contrario faranno registrarvi i nomi solamente di quei che gli avranno osservati, ai quali consegneranno ogni anno *gratis* una declaratoria in iscritto, acciocchè possa dai medesimi senza alcun contrasto godersi di tutti i privilegi chiericali; de'quali privilegi all'incontro non godranno que'chierici di prima tonsura, o di ordini minori, che per non aver osservati i suddetti requisiti saranno stati cancellati dalla detta tabella da tenersi pubblicamente in sagrestia, e non avranno la menzionata declaratoria dal Vescovo.

I Vicarii capitolari non potranno d'or innanzi senza il voto del pieno Capitolo da darsi nel luogo solito capitolare per maggioranza di voti segreti, da calcolarsi secondo il costume di ciascun capitolo, e da registrarsi negli atti capitolari, concedere le lettere dimissoriali ai laici, benchè siano realmente artati per ragion di beneficio o di cappellania, che sia veramente ecclesiastica nel modo spiegato di sopra, oppure a coloro che avendo già la prima tonsura, sono presentati a qualche beneficio o cappellania, che *actu requirat certum ordinem*, e coll'espressa condizione, che così nell'uno che nell'altro caso colui che chiede d'essere promosso, non sia stato altre volte rigettato dal Vescovo antecessore: ma ove si tratti di persone che non sono veramente artate nel senso di sopra accennato, non potranno concedere le lettere dimissoriali, neppure *post annum luctus Ecclesiae*, senza un'espressa licenza della Sacra Congregazione del Concilio.

Chiunque sarà promosso alla prima tonsura, agli ordini minori, o agli ordini sacri contro la forma prescritta nel presente Regolamento, oltre alle pene di sopra accennate, rimarrà perpetuamente sospeso dall'esercizio dell'ordine già conferitogli; e chi l'avrà così ordinato, oppure gli avrà a tal effetto concesse le dimissorie, se sarà Vescovo, sarà sospeso per un anno dalla collazione degli ordini, e dall'esercizio de' pontificali; e non essendo Vescovo, ma Prelato inferiore coll'uso dei pontificali, sarà sospeso per sempre dall'esercizio de' medesimi, e non avendo l'uso di essi, come pure qualunque altra persona costituita in dignità, per sempre sarà sospesa dall'esercizio dell'ufficio, o de' suoi ordini.

XVI. In ultimo sarà cura del Ministro Apostolico lo trasmettere ai Vescovi e Ordinarii de' luoghi un esemplare di questa presente Istruzione, inculcandone l'esatta osservanza, e la Maestà del Re di Sardegna viene altresì pregata a trasmetterne a' suoi Tribunali, ordinando, che l'osservino, e registrino nei loro pubblici uffizii, acciò in avvenire si osservi puntualmente quanto è inserito nella presente Istruzione.

(Translation.)

IT being universally known that in the time of the Pontificate of the late Benedict XIII, of holy memory, certain documents of accommodation and agreement were drawn up in order to allay the controversies which had arisen between the Holy See and His Majesty the King of Sardinia, relative to ecclesiastical immunities and liberties, and to the subject of benefices; and it being also known that at the commencement of the Pontificate of the late Clement XII there arose new questions upon what was done and agreed upon in the time of his predecessor, Pope Benedict XIII, above mentioned; and afterwards, at the close of the Pontificate of the aforesaid Clement XII, attention being again given to the subject of benefices, and a new question being now introduced as to fiefs which was not mentioned during the Pontificate of Pope Benedict; and at various congresses and with the intervention of prelates and Cardinals, those things being examined which required examination, the Treaty remaining unfinished in consequence of the decease of the Pontiff Clement; His Holiness our Lord Pope Benedict XIV, upon his election, walking in the footsteps of his

predecessor, did not fail to put an end to all questions upon the subject of benefices and fiefs, to the full satisfaction of His Majesty the King of Sardinia; and whereas in the draft of an agreement upon ecclesiastical immunities and liberties, made in the time of the Pontificate of Pope Benedict XIII, it was expressly provided that an instruction should be drawn up to be sent to the Apostolic Minister who was to proceed to Turin, with directions to communicate the same to the bishops; but as the Minister was not then sent, the said instruction was therefore not drawn out, and at the close of the Pontificate of Pope Clement the subject of the instruction began to be discussed, but was not continued, in consequence of the said decease; His Holiness our Lord Pope Benedict XIV, after having heard the opinions of certain Cardinals full of zeal and well skilled in the matter, and after having made all the necessary enquiries as to the state of the affairs of the ecclesiastical immunities and liberties, transmits to Monsignor Merlini, the Apostolic Commissioner in the said place, the present instruction, to be communicated by him to the bishops, in which various difficulties are smoothed, which arose as to the meaning and execution of the agreement made in the time of the Pontificate of Benedict XIII. To this instruction other regulations shall also be added, for the good administration of ecclesiastical jurisdiction and immunities, with the lively hope that the whole may be graciously accepted by His Majesty the King of Sardinia, who has given and still continues to give so many proofs of his kind and sincere attachment to the Apostolic See; and in order that the whole may proceed with due clearness, the present instruction shall be divided into two parts, the first of which shall treat of what relates to the Concordat of Pope Benedict, and in the other those things shall be treated of which appertain to the good administration of ecclesiastical jurisdiction and immunities, of which no mention was made in the Concordat of the aforesaid Pope, frequently alluded to.

I. Some bishops having a part of their dioceses in the States of His Majesty the King of Sardinia, while their cities and other parts of their dioceses are in the States of another Prince, and a controversy having arisen, not indeed respecting the visitation and exercise of every act of jurisdiction in that part of the diocese situated in the temporal dominions of the said King, but as to the mode, whether in the said part the bishop shall have a rural dean (*vicario foraneo*), in accordance with the principles of canonical jurisprudence, or a vicar-general, as the convenience of the subjects appeared to require; so that they should not be compelled on every occasion of any moment to leave their residence to go and prosecute their suits in the ecclesiastical court, and in presence of the bishop or of his vicar-general, who usually dwells in the place where the bishop resides; an arrangement was devised and established by the late Benedict XIII, in which the episcopal authority with regard to visitation and the exercise of every act of spiritual and ecclesiastical jurisdiction in that part of their diocese situated in the States of the King of Sardinia, being preserved safe and intact, they were commanded to depute to those often-named parts of their dioceses a vicar-general, not objectionable to the temporal Sovereign, so that he might in their name, and with the jurisdiction which they were bound to confer upon him, hear, determine and judge, in the same parts of the diocese, every kind of cause, as well civil as criminal, in the case of the persons over whom the bishops had jurisdiction. Moreover, with the object of guarding against the apprehended prejudice to the episcopal authority, which might be supposed to be inferred from the obligation of deputing the aforesaid vicar-general, that prudent Pontiff added an order, that in the appointment to be made by each bishop of a vicar-general for the parts of the diocese under the King of Sardinia, each of them should command his vicar-general not to proceed to any act of consequence, and still less to pass any criminal sentence, without having first communicated the whole to the bishop, and having obtained his previous assent, under penalty, in case of contravention, of the greater excommunication, to be incurred, *ipso facto*, if the vicar is not a priest, and under penalty of suspension *a divinis*, also *ipso facto*, if he is a priest, together with the penalty of removal from his office, and other punishments at will, according to the nature of the offence; and all this shall be carried into effect.

II. With regard to suits *restituendæ et reintegrandæ*, in the matter of benefices and tithes, it was granted, by way of toleration, in the Concordat of Pope Benedict XIII, that the lay power may act therein; which, however, was excluded from the case of a demand (*petitorio*) in such manner, that if a contro-

versy should arise in the aforesaid matters upon the case of the demand, the same could not be decided by any other than the ecclesiastical judge. For example, if one had been used in times past to pay four measures of corn as spiritual tithe, it was said that it would be tolerated that such a person should be brought before the lay judge, although the ecclesiastical party might contest the matter, and declare that in past years he had been paid five or six measures; as also if any ecclesiastic had been deprived of any benefice, or of taking tithe, and without entering into any examination of the *jus*, he should simply wish to show by proofs and acts, *de facto*, merely that his possession had been taken from him, or that he had been hindered in it, either forcibly, or by a mere accident, or by an act of war, or other similar case; and should therefore claim to be replaced and continued in the same; it was said that it might be tolerated that the investigation of such fact should be made before the lay judge; but if the ecclesiastic, admitting the payment in years past of four measures, should say or claim to have five in future, and should dispute upon the *jus* of enforcing the payment of so many for the future, such claim could not be discussed before any other than the ecclesiastical judge.

Various controversies having arisen upon this same part of the Concordat, and as other doubts may arise in future time, His Holiness, recommending the ecclesiastical jurisdiction to His Majesty the King of Sardinia, and well aware that in his happy States he will never allow it to be trenched upon; and His Majesty being well aware of the intention of the Pope Benedict, determines that the aforesaid interference of the lay power shall not be peculiar to it, but common to it with the ecclesiastical power; so that, however, neither power shall meddle with a suit first brought before the other (*in tal maniera che sia luogo alla prevenzione*). He determines also, that in no suit the subject of sacred rites shall in any way be included under the denomination of beneficiary matters; neither shall the subject of precedence in sacred functions, either between ecclesiastics or between ecclesiastics and laymen; both the case of demand and of possession appertaining exclusively to the ecclesiastical judge, to whom also shall appertain the case of demand and of possession in everything relating to sacred and spiritual matters; so that in the affair pending before the lay judge in the two cases of possession mentioned above, the cause of the layman should pass to the ecclesiastic, if the judge endeavours to bring on the discussion upon the title, and particularly if the case of demand shall be so clear as to absorb the case of possession; and that, finally, when the case of possession before the lay judge is terminated, neither party shall be prevented from bringing a new case of demand before the ecclesiastical judge.

III. In the Concordat of Pope Benedict, the execution of apostolic briefs and bulls was discussed, as may be read in the said Concordat. More inspection was tolerated, without putting any mark or making any order as to execution upon the said bulls and briefs; and it is known that all has been faithfully fulfilled. And although it be positively asserted, and it is believed, that neither the Senate nor any other tribunal has, at the request of any person whatever, assumed any cognizance as to the justice or alleged injustice of the bulls and briefs, it being nevertheless desirable that all may for ever proceed with perfect harmony, should any objection ever be made to the execution of bulls and briefs, and there should be a wish to know the motives of the same, the Ministers of His Majesty shall, with all the reasons necessary to give full information, state the same either to the Minister of the Holy See residing in Turin, or to the Apostolic Ministers resident in Rome. But dogmatic bulls in matters of faith; bulls and briefs regulating holy living and good conduct; bulls of jubilees and indulgences; briefs of the holy penitentiary; and letters of the sacred congregations of Rome, written to the ordinaries or other persons for information, shall be excepted from mere inspection.

IV. In order to the proper regulation of the demand for secular assistance which is sometimes made by the ecclesiastical power, and the grant of the same made by the secular power, it was said in the above-mentioned Concordat of Pope Benedict XIII, that for the avoiding renewed ill-feeling, every bishop, before proceeding to his church, shall go and perform an act of respect to the person of the Sovereign, imploring the assistance which was to be graciously granted by the same; and for the proper regulation of the actual use of it, it was added that the bishop, in pursuance of the Royal concession, should demand the assistance of the local judge, without being obliged to declare the name of the person,

or the title of the cause, or the nature of the same, in the case of ecclesiastical persons, and this as well in civil as in criminal cases; and in the case of lay persons, that no offence should be taken if the local judge, before granting the assistance of the officers, should require to know the name and the title of the cause, as well in civil as in criminal cases; which being done, the requisite number of officers required should be immediately granted.

It is now willingly granted, and it is even urged, that every bishop, before proceeding to his residence, shall perform towards the King every act of the utmost deference, begging his Royal protection, praying him to charge his judges and courts to furnish the necessary aid, so that the bishop's decrees and judgments may be carried into execution, in which secular assistance consists, which is spoken of in the sacred canons.

As there has never been any difficulty, on the contrary, it has been always admitted, that, in accordance with the sacred canons, wherever the secular aid is implored, it should be granted, and there having been differences of opinion as to the time when it should be implored, it is determined that when the ecclesiastical power proceeds against any ecclesiastical person, either civilly or criminally, and has need of secular assistance, it shall ask for the same at pleasure; that is to say, either at the commencement, or in the middle, or at the end of an affair, without being obliged to declare either the name of the person or the title of the cause, or the nature of the same, and that when it shall have been solicited at one of the periods aforesaid, it shall have effect during the whole of the case; when proceeding against any lay person it shall be solicited in the beginning of the case, and then being solicited for the whole of the case it shall be available without any necessity for a new demand. We do not speak now of the cases in which the ecclesiastical power may proceed also against laymen, that shall be spoken of subsequently in paragraph VII; therefore, to proceed with the matter of the secular aid, there having been formerly complaints that the lay authorities claimed to see and examine the proceedings which had taken place before the ecclesiastical power previously to granting the aid for the execution of the sentence, it is determined that whether the question be against ecclesiastics or against laymen in the cases where the latter are under the jurisdiction of the ecclesiastical courts, according to paragraph VII before mentioned, the civil power cannot in any way claim any examination or even the slightest inspection of the proceedings which have taken place before the ecclesiastical power previously to granting the aid for the execution of the sentence. Finally, for the proper ends of justice, every episcopal court shall have and retain at its disposal a messenger (*cursores*), to be employed in judicial acts which it shall have to perform either against any ecclesiastic or any layman in those causes in which it may proceed against laymen according to what is stated above, and which shall be set forth in detail in the said paragraph VII, and in no case will it be necessary to solicit the secular aid to enable the said messenger to act.

Among the causes in which the ecclesiastical judge can proceed exclusively against laymen, there shall be enumerated in the subsequent paragraph VII, among others the causes of faith and of marriage, in which the question shall be the validity or invalidity either of the marriage or of the betrothment (*sponsali*). And although it was just now stated that in causes where the ecclesiastical power proceeds against laymen, the secular arm must be solicited at the beginning, yet in the aforesaid causes of faith and of marriage it may be solicited either at the beginning, or in the middle, or at the end, as it has been said may be done in the causes in which the proceeding, either civil or criminal, is against ecclesiastics; and if solicited at one of the times aforesaid it shall be available for the whole cause.

Moreover, in order that ecclesiastical courts may have more freedom in the exercise of their jurisdiction, each of them may keep up its own prisons, if it have any, and have them guarded, and even build new ones and keep them guarded, if it have not them before, with the proviso that if it wishes to construct new ones it should enter into an engagement to build them within a reasonable time to be agreed upon with the civil power, when the rent of each bishopric is to be taken into consideration; and should the bishop's prisons be not considered safe, or should any bishop be without prisons, or refuse to build them, so as to have no means of keeping prisoners in safe custody, His Sardinian Majesty

is requested to permit that in any such case the prisoners be kept at the disposal of the ecclesiastical power in the prisons of the State.

V. In the project of accommodation with Pope Benedict, the right of visiting sacred places was preserved to the bishops, as is prescribed in the holy Council of Trent. It is well known that the sacred Council of Trent made the bishops, even as delegates of the Apostolic See, the guardians of all charitable institutions, gave them the right of visiting hospitals, all colleges, confraternities, and schools, the pawnbroking establishments (*monts de piété*), all holy places, even though the care of them should belong to the laity, or that they possessed the privileges of exemption, excepting only from the visitation those places which are under immediate Royal protection, in which case the King's permission is required: and the same sacred Council further ordains, that clerical and lay administrators, of whatever Church, confraternity, or other pious institution, shall be obliged to render an account of their administration to the ordinary, every year, any custom or privilege to the contrary notwithstanding, excepting only the case where the contrary was established in the foundation; declaring that if by custom, privilege, or constitution, the administrators were to give an account to any other person, that must be done; but the ordinary must nevertheless always be called in, so that the discharges and receipts given to the administrators should not avail them, unless the account had been given in the aforesaid manner. It being necessary to obey the sacred Council of Trent, it is therefore declared, that only those places are exempt from the visit of the ordinary which are under immediate Royal protection; and no places can be said to be under immediate Royal protection but those which are of Royal endowment, or those in the original founding of which the Royal protection has been petitioned for and obtained by the founder; but on no account those institutions which have not been founded out of the Royal patrimony, or being founded by others, were not placed under Royal protection by the founder; never for those which either were not of Royal foundation, or for which, after the foundation, the Royal protection was petitioned for and obtained, but not by the founder; and concerning the rendering of accounts to the bishop by clerical as well as lay administrators, which must take place every year, His Holiness declares that finding any of them unfit or dishonest in the discharge of their duties, the ordinary shall have power to dismiss them, appointing instead at his pleasure whomsoever belonging to the pious institution he may deem fit, to watch over the payment, citing the ecclesiastical debtor before the ecclesiastical courts, and the lay debtor before the lay courts—in which case it is hoped, from the justice of His Majesty, that he will not fail to give fitting and special orders for lay debtors to be constrained to pay by the most prompt and summary means.

VI. The pretension having been put forth of forcing payment (of taxes) on estates entered into the cadastre in the year 1606, in consequence of an edict then published by the civil authority, and renewed in 1640, although such estates had since passed into the hands of the clergy, and had become dotations of benefices, of collegiate churches and the like, or of forcing those to pay which had not paid, as well as exacting civil taxes from ecclesiastical property either then or afterwards to be so appropriated, in the Pontificate of Pope Benedict XIII it was agreed that a royal notification should be published, stating, first, that His Majesty having agreed with the Apostolic See, that the estates which were already in the cadastre in 1620, should be subject to all payments; secondly, that all arrears up to the day of the notification, should be allowed; thirdly, that no payment should be expected from estates already appropriated to ecclesiastical purposes, up to the day of the notification, His Majesty having come to an understanding with the Apostolic See;

In consequence of this, the minute of the notification was agreed upon in all things, in accordance with the words just mentioned; but inasmuch as the Concordat as well as the minute relate to Piedmont, and inasmuch as in Monferrato, to which the Treaty concerning Piedmont does not apply, four other tributes are payable, the first called Ordinary, and imposed since the year 1320; the second, called Tax of the Citadel, and imposed in the year 1599; and the other two called Taxes of the Barracks, and of the grants imposed in subsequent years, it was also agreed that with respect to Monferrato a distinct royal notification should be made, in every respect of the same tenor as the minutes made for Piedmont.

As is too well known, various controversies have been raised on this part of the Concordat. Pope Benedict would not allow that the civil authority had the right to impose the said taxes; for which reason the date of payment was expressed, that is 1620, which is a different date from that of the edicts. The civil power stood on its right of imposing the said taxes on property, which taxes should follow the property into whatever hands it might pass. A middle course was adopted by the Pontiff in the Concordat, which was, that mention was to be made of his authority;—this does away with any infringement of ecclesiastical rights and jurisdiction:—but leaving the decision of the right untouched, and the Pontiff taking compassion on the state of the laity, rendered unable to pay an account of the many acquisitions made by the clergy, it was agreed as we have seen above.

In order to put an end to every controversy which may remain unsettled with reference to the above-mentioned payments, each bishop must publish in his diocese a notification, declaring that if ever any person, college, ecclesiastical corporation, whether secular or regular, on the publication of the royal notifications of the year 1727, had not been able, through want of the necessary documents or for other reasons, to prove that they possessed any estates free from taxes before 1620, but should now be able to prove it, that they might do so within the term of two years from the publication of the present Treaty, presenting their remonstrances in writing, backed by authentic and valid documents to him, the bishop, in the entire confidence that being so supported, these remonstrances will not fail to be laid before His Majesty, from whom it is fully expected justice will be done.

VII. In order that the exercise of the ecclesiastical authority and jurisdiction in behalf of bishops for the government of the flock committed to their care be free, they must enjoy full liberty to visit the diocese, and after the visit, to convoke the synod, without being obliged to obtain any licence; they must be able, without any licence, to publish edicts; they must have it in their power also, without licence, to come *ad limina*, [*i.e.* to Rome] as the King's Majesty may be certain that no bishop, nor any person belonging to the clergy, will leave the country and depart from his dominions without first paying the proper mark of respect to His Majesty.

The ecclesiastical power alone shall take cognizance of matters of faith and crimes of heresy. If any layman shall have the sacrilegious temerity to celebrate the holy mass, or to exercise other functions belonging to the sacred order, or to hear sacramental confessions, he shall in this case be privately prosecuted and punished by the ecclesiastical authority alone. In case of the theft of any sacred pyx with the consecrated wafers in it, or of any crime of blasphemy, if it should appear during the prosecution, that the lay culprit could be suspected of heresy, the civil judge must deliver him over to the ecclesiastical judge *ut procedat super haeresi*; and the bishop having passed his sentence, either absolving *ab haeresi* or condemning, he must, with the usual protest of the cap. *Prælati, De homicidiis, in sexto*, deliver up the culprit to the civil judge, *ut procedat ad ulteriora*.

The cognizance and punishment of polygamy also shall belong to the ecclesiastical authority alone.

To the ecclesiastical judges alone also shall belong, to the exclusion of any one else, matrimonial suits which relate to the validity or invalidity either of marriage or of betrothment.

Tithe causes, as well as those relating to benefices, shall also belong to the ecclesiastical jurisdiction exclusively, should a dispute arise about the title, according to what has been before said as to tithes; and as to cases relating to benefices, even those requiring the right of presentation shall belong to the ecclesiastical courts, provided the question be not respecting a royal or feudal right of presentation, and that the decision depends on knowing whether the right of presentation is or is not a feudal right, or one connected with the right respecting the rest of the property in the case of lay advowsons.

The judging of sacred rites and precedents in ecclesiastical solemnities shall also belong to the ecclesiastical power alone; and as to the observance of festivals, the bishops shall have authority to inflict on transgressors the required punishments, excepting only when for just and legitimate cause, they have granted permission to perform menial offices on festival days; charging them not to grant such dispensations excepting on strong grounds without exacting any payment, and not to trouble themselves or feel aggrieved if the civil courts

should punish the transgressors against the observances of the said solemn festivals.

Finally, even civil cases shall be reserved for the cognizance of the ecclesiastical authority when they shall be between persons belonging to the clergy, and when the person in orders shall be the defendant.

No obstacle shall be placed in the way of the ecclesiastical authority proceeding against laymen, according to the discipline of the Church and the canon law, with spiritual punishments only, even extending to censuring public and scandalous culprits, and especially those guilty of sacrilege, adultery, concubinage, usury, blasphemy, and the like.

His Holiness feels satisfied that the lay judges will not at all interfere in criminal actions against ecclesiastical persons whom they know to be fully subject to the jurisdiction of their ordinaries; and any smuggling or fraud being committed by an ecclesiastic to the prejudice of the royal exchequer, the ecclesiastic shall not be arrested or imprisoned by the civil authority. The bishop, however, is charged to watch with the greatest diligence and attention, that excesses so disgraceful to the clerical character should not be committed by clergymen; and when committed, that the culprits should not escape the punishment deserved, in order that the civil power may not have to complain of the connivance of the ecclesiastical judges.

VIII. For the good of justice to be administered in ecclesiastical tribunals in the cases and affairs just mentioned, no layman shall be hindered from appearing in ecclesiastical courts in the capacity of witness, when necessary; besides the messenger before mentioned, bishops and ordinaries may retain for the records of their courts such apostolic notaries as they may deem expedient, even should they not appear in the roll of royal notaries, as has been customary hitherto. The concurrence of His Majesty having been obtained, as desired by His Holiness, the solicitors practising before the Senate shall be allowed to appear without His Majesty's licence before ecclesiastical courts, and the same also shall be permitted with respect to all other solicitors and counsel.

In hearing and deciding controversies, bishops must understand that they are bound not to deviate from the tenor of the sacred canons and of the apostolic constitutions. The sentence being passed by the bishop, no delay must intervene, or impediment be put in the way of its execution, nor shall the course of appeal to the superior judges, according to the sacred canons, be impeded, even should the cause be removed from the dominions of His Majesty; nor shall it be permitted that in suffragan cities there shall dwell officers of the metropolitan to receive appeals, this being contrary to the orders of the Holy See and of the Supreme Pontiffs.

There have been in past times several other disputed points which have served to foment dissension, it having been stated that the confraternities were prevented from uniting with the arch-confraternities of Rome, in order to be admitted to participate in the sacred indulgences, and that the civil power wished to meddle with the establishment of new benefices, of peculiars, and with the enlarging of small churches or the restoration of old ones; and it having been replied that such was not generally the case, bishops and ordinaries are now informed that without being obliged to request any licence, the confraternities of their dioceses may ask to be united to the arch-confraternities of Rome to partake of the fruits of the holy indulgences; and that in the same manner it is permitted to found benefices and peculiars, enlarge small churches, restore old ones; observing, however, the required rules laid down in that matter by the sacred canons and the apostolic constitutions.

The iniquity of men having greatly increased of late, and the wicked taking advantage, against the express intention of the Holy Canons and of the Apostolic Constitutions, of the facility of committing crimes from the asylum readily afforded by churches and other sanctuaries, it is ordered, that the following criminals shall not enjoy the privilege of asylum, viz.:

Homicides, not only when the murder is by treachery according to the common law and the Gregorian Bull, but also when it is premeditated, according to the Bull of His Holiness Benedict XIII, which commences *Ex quo Divina*; refuge will only be afforded in cases of manslaughter and justifiable homicide *cum moderamine inculpatæ tutelæ*, His Holiness extending to the dominions of the King of Sardinia the Bull *In supremo iustitiæ solio* of the holy memory of Pope Clement XII.

Incendiaries, that is to say, those who *dolo malo et data opera* set fire to, or cause to be set fire to, or who *scienter* shall give aid or counsel to any one who should set fire to any church, sacred or religious place, or to any dwelling-house, situated either in or out of towns and villages, as well as to cottages constructed *ad instar domorum*, usually inhabited by peasants or shepherds; or to sheds erected for herds or flocks; or to vineyards, corn-fields, or olive-plantations, forests, or to any other property planted, cultivated, or stocked with fruit-trees.

Kidnappers, that is to say, those who forcibly or fraudulently carry off and transport *de loco ad locum* men and women, detaining them with the view to compel them to redeem their liberty; as also those who by means of messages or letters demand money or any other thing with the threat, in case of non-compliance, to kill or to set fire to the property of those to whom they address themselves.

Those who, *scienter, dolo malo et animo nocendi*, compose, vend, or administer poison, although the death of the person sought to be poisoned might not ensue therefrom; or even should the poison by some fortunate occurrence not be taken by the person.

Those who cause any person to be assassinated, or who assassinate by commission received from others, or who give assistance or counsel to such villains, even though death should not ensue, provided, however, *deventum fuerit ad actum proximum, hoc est ad insultum, ita ut intervenerit vulnus*.

Footpads and robbers on the high-roads or in bye-ways, even if it be the first time that they commit such crime, and although without any violence offered to the person on whom the robbery has been committed.

Those who, in the night-time, with false or skeleton-keys, or other instruments, open the doors of houses, shops, warehouses, or storehouses; or who force open or burn the said doors; or who effect their entrance into the said places through the roofs, windows, or apertures made in the walls; or steal to such an amount as to deserve death according to the common or statutory law.

So likewise those who, assuming under false pretences the character of officers of justice, or in the name of the Government, in the night-time cause to be opened to them the doors of houses by the inhabitants thereof, and having effected an entrance therein, rob or offer violence to the chastity of the females of the same.

Forgers of deeds, whether of bills of credit or other instruments issued from public banks; as also those who forge orders, by means of which they obtain money deposited by others in the said public banks, to the prejudice of the public faith.

Merchants guilty of fraudulent bankruptcy, who, under pretence of their failure, conceal their property to the detriment of their creditors.

Royal treasurers and receivers-general, who, retaining or receiving Government money from inferior officers, or from other debtors of the State, for the purpose of transmitting it to the royal treasury, are guilty of embezzlement or of forgery, so as to render themselves liable to the ordinary penalty; as well as the chief cashier and other officers and managers of public banks, who embezzle therefrom monies to so great an amount as to subject themselves to the ordinary penalty. Warehouse-keepers of pledges and other officers and directors of public *monts de piété*, who should steal the said pledges in such quantity as to deserve the above penalty; and finally, those who, being public treasurers of corporations, embezzle the public monies to the same high and punishable extent.

All delinquents, or those guilty of the crime of high treason in the first and second degree. And under the second degree, with respect to that which appertains to offences committed against the persons of Ministers and officers when in the discharge of their duty, should be comprised those only who should offer personal violence but not verbal offence to the said Ministers and officials who administer justice and exercise jurisdiction derived immediately from the lord paramount, and not merely from inferior feudal lords of the places.

Those who forcibly take or cause to be taken criminals from the church, or from any place enjoying the right of asylum. Those who, as well in churches as in churchyards or in any other place enjoying the right of asylum, commit murder, mutilation of members, or any other crime by which *de jure communi* *intrat pœna sanguinis, aut treremium*; as well as those who commit the same crimes when coming out of the said churches and places as aforesaid.

Those who abuse the privilege of a place of refuge, even for the first time, shall be ordered by the bishop to withdraw from that to another place of refuge, and be protected from the secular power *sub pœnis violatæ immunitatis*, during their removal from one asylum to the other. It shall, however, be intimated to them, that should they abuse the place of refuge for the second time, it will be declared by the bishop that they are to enjoy no longer any sort of ecclesiastical protection. And in order that such intimation may be made without delay by the bishops, the required powers will be conceded to them by His Holiness once for all, so that they may not on every case be obliged to write to Rome to obtain the necessary authority.

For the future the following places shall not enjoy the right of asylum:

Rural churches situated beyond cities and dwelling-places, in which the host is not kept, excepting therefrom parish churches and chapels of ease having cure of souls, with the understanding that both with respect to the aforesaid excepted rural churches, and also to all the other churches situated in cities and other inhabited places, the benefit of asylum ought not to extend, with respect to the exterior of the edifice to any other part than to the entrance when surrounded with walls, or piazzas, to steps and doors both in front and at the sides, and to the principal entrance. Chapels and oratories in houses, either of private persons or noblemen, although enjoying the privilege of public churches, and opening into the public street, as well as all chapels of fortresses and castles, although the holy host be kept there.

Steeple, apart from churches and their walls.

Churches abandoned and in ruin, divested of their sacred character, of which they shall be ordered to be deprived by the bishops and ordinaries of the places.

The gardens and other appurtenances of churches or of any other religious building, which are not surrounded with walls, and are not comprised in the cloister (*clausura*); shops and houses abutting on the walls of churches or monasteries, even when they have internal communication with them; provided, however, they be not comprised in the cloisters (*clausura*).

Houses inhabited by priests or other ecclesiastics, although they may communicate with the church, excepting, however, the houses inhabited by rectors and other ecclesiastics having the care and guard of the church; provided, however, that such houses be inhabited by those ecclesiastics themselves and not by other persons. Such houses having immediate communication with the church itself shall enjoy the right of asylum, although they may have the door opening to the public street.

Should any lay delinquent, supposed guilty of a crime excepted from those to which the right of asylum is granted, take refuge in a sanctuary, on the representation of the lay magistrate, accompanied by evidence *ad capturam*, permission shall be immediately given by the bishops, and their vicars-general in cities, and in other places, by rural deans, and failing these by the highest ecclesiastic on the spot, to remove the accused from the sanctuary in the presence of an ecclesiastical person to be appointed by the same authority, and deliver him up to the secular power after an oath taken *in scriptis* by the civil judge, to keep him *nomine ecclesiæ*, and to restore him to the sanctuary in case it should be decided that he has a right to enjoy it: and should he not be restored, the bishop shall be empowered to proceed against the secular magistrate according to the canons for infringed immunity.

In case the said licence should be denied with respect to the above delinquent, when sued for in the above manner, let permission be given to the lay judge, without fear of incurring censures, to take out the delinquent with all decorum and without any scandal, with an acknowledgment in writing, however, as above stated, to be transmitted to the ecclesiastical court of the bishop.

The accused being committed to the secular prisons, the depositions shall be taken by the secular judge, and at the end of four months shall be submitted to the court of the bishop, who shall declare within the term of one month, whether the accused enjoys the right of sanctuary or no.

In case the secular judge does not submit to the bishop the depositions within the space of four months, it will be the bishop's duty to demand that the accused be restored to the Church, the granting of which request cannot be delayed by the secular judge, in conformity with the obligation signed when the accused was delivered up to the civil power. In order that the bishop may

declare that the accused does not enjoy the right of sanctuary, the evidence *ad torturam* will be sufficient. If the bishop declare that the criminal does not enjoy the right of sanctuary, in such case the effect of the engagement undertaken by the secular judge at the time of receiving the accused must cease; and, on the other hand, a new undertaking must be entered into by the same secular judge, of the same tenour as that mentioned above, to remit the criminal to the church whenever the accused shall in his defence have proved that the crime is not excepted from those for which the right of asylum is granted, and this is left to the conscience of the secular judge.

Under the name of bishops are to be understood full bishops, and not inferior prelates of any kind, though they may possess their own separate territory and a quasi-episcopal jurisdiction, in which case recourse must be had to the diocesan bishop, supposing the place to be in a diocese, or to the nearest bishop if otherwise. From this rule must be excepted those inferior prelates who may have obtained or shall obtain from the Apostolic See special powers to act in these causes of local immunity.

XII. Bishops, rural deans, or whoever holds the place of superior ecclesiastic either in cities or in any other place of a diocese, are immediately to order that those who take refuge in the churches or places of refuge, be disarmed, and may, if need be, request the aid of the secular power, which may require of the aforesaid superior ecclesiastics, that the arms should be removed from the place of asylum, in which case permission shall be given accordingly and the arms removed, with the intervention of an ecclesiastic; and should the aforesaid ecclesiastical superiors be unwilling to grant this licence, it shall be lawful for the secular power to take away the said arms, which, however, if taken from the refugees by the ecclesiastical superiors, must be handed over to the secular magistrate under protest to be made by the same ecclesiastical authority, according to the cap. *Prælati. De homicidiis, in sexto*.

Whenever any search shall have to be made in a church or other place of refuge, for plundered or contraband property, or writing, or money, or goods hidden by culprits, or for whatever may in any manner belong to the treasury, it shall be the duty of the officers of justice (without, however, being bound to indicate the precise and individual spot) to ask permission of the ecclesiastical superiors; which permission shall be granted in the cities by the bishop, and in all the other places of the diocese by the rural deans; and in their absence, by the person on the spot holding the highest ecclesiastical rank, excepting, however, conservatories (houses of shelter or refuge for poor women or orphan girls) and convents of nuns. When licence is obtained, the search shall be made in the presence of an ecclesiastic, and if contraband or plundered property, or any other article of the above-mentioned description be found, it shall be removed and handed over to the civil power, under protest to be made by the same ecclesiastic, according to the cap. *Prælati. De homicidiis, in sexto*; on the other hand, if the licence asked from the ecclesiastical authorities be refused, the civil power shall be allowed of itself to proceed to the said search and seizure of property without fear of incurring censure, always, however, excepting as above, conservatories for women and the convents of nuns.

XIII. It being in the bishop's power, in conformity with what has been said above, to decide whether persons have or have not claim to the right of asylum, it being the duty of the said bishop, as also has been stated above, to pronounce his decision within the term of one month from the time when the depositions shall have been handed over to him by the civil judge; and, moreover, as the case may occur, that within the aforesaid month the decision be not pronounced by the bishop, or that in the discussion of these causes, either at the instance of either the ecclesiastic or civil law officers, it may be necessary to order that additional evidence be taken, or new proceedings altogether be instituted, in order that justice may have its free course, and not be exposed to the frequent changes of judges, His Holiness deposes the Lord Archbishop of Turin, and gives him every suitable and necessary authority to decide the cause, if it shall not be decided by the bishop within the month appointed; as also in case of any dispute arising respecting the taking of additional evidence or the ordering new proceedings. He moreover deposes and gives the suitable and necessary authority to the aforesaid Lord Archbishop, in order that he may sit in appeal from the judgment of the bishop upon the subject of local immunity, constituting him judge of appeal from the bishop as above; and with respect to the

decision pronounced by the aforesaid Lord Archbishop of Turin, from whom one of the parties might wish to appeal farther, or in case the decision were not pronounced by him within the month, or that in a cause pending before him any dispute were to arise about the taking of new evidence, or instituting new proceedings, the whole shall devolve upon the Bishop of Saluzzo, upon whom His Holiness confers all the suitable and necessary powers of judging in case of appeal from the archbishop, and further upon the Bishop of Ivrea, in case of inability to proceed on the part of the Archbishop of Turin or of the Bishop of Saluzzo, or in case either see were vacant. As there cannot now be any doubt, when the precise facts of the cases are known, on what occasion the right of asylum is to be granted, and on what occasion it is to be refused, and as these are points which require prompt decision for the furtherance of justice, it is ordered that the above-mentioned judge-delegates who are empowered to proceed in cases of appeal, should proceed finally, and to the exclusion of any ministerial judge or tribunal whatever, either ecclesiastical or civil, of whatever rank, including even the Lord Nuncio, or any other judicial officer who might claim to act by virtue of Royal protection, or by special administrative Commission.

XIV. There being nothing which more conduces, by the help of the Divine assistance, to harmony between the ecclesiastical and secular power than the blameless life of ecclesiastics, and as the vigilant inspection prescribed by the sacred canons greatly helps to produce that result, whenever the case happens of admitting persons to orders, and also for the superintendence of those already admitted to orders, that they do live in such manner as to render themselves worthy of clerical privileges and of rising to the superior orders, certain regulations are laid down in this and the following paragraph to be inviolably observed by the bishops and ordinaries of the places.

In future, no one shall be promoted to the first tonsure, unless possessing a benefice or perpetual curacy [or chapelry], the net income of which amounts to at least one-half of the sum requisite to give a qualification (title) to the person to be ordained, in his diocese. Should a bishop judge it really useful or necessary to the Church, to confer the first tonsure on any youth, although he may not hold any benefice, he may do so, but only in case the same youth hold a perpetual ecclesiastical pension to an amount equalling at least the half of the sum fixed for the half of the qualification in his diocese, or the qualification itself; which qualification (constituting a title), to avoid any fraud or deceit, shall henceforth be derived only from real property or from an annual fixed revenue; and it shall be regulated in accordance with the synodal sum fixed in each diocese, provided that the qualification do not consist of a smaller sum than 24 ducats, nor of a larger than 40.

Besides the requirement of the benefice, perpetual curacy, or perpetual ecclesiastical pension in the manner above specified, or of the qualification, the first tonsure shall not be conferred upon any one who, after completing ten years of age, has not dwelt at least three years in some ecclesiastical seminary or college; or who, where that cannot be done, has not at least for three years worn the clerical dress by permission of his own ordinary, and during those three years, or at least during the greater part of the solemn festivals of each of the three years, has not served in some church in the manner prescribed to him by his own bishop, allowing such service as part of the residence which he ought to have made in some seminary or ecclesiastical college.

Any youth wishing to enter any public university, or any place of instruction, with the view of there attending the lectures and applying to study, may do so; and the time that he shall stay there shall serve him for that which is required of him in order to receive the first tonsure, as if he were in an ecclesiastical college; provided, however, that he do so with the permission of his own bishop, and that he present himself with his own bishop's letter of recommendation to the bishop of the place, and with the latter's direction, cause himself to be attached to the service of some church, wearing the clerical dress; and performing for a term of three years, or at least for the greater part of each of the three years, the same service which he would have rendered had he remained in his own diocese, as above directed; under the express condition, that if he desire to be invested with the first tonsure, he must obtain from the bishop of the place where he has resided, certificates *de vita et moribus*, and of having strictly fulfilled whatever has been prescribed to him, upon the exhibition of which letters he shall be eligible.

From this rule they alone are to be excepted, who are bound (*artati*), that is, who have a claim by virtue [of the terms] of the foundation to any benefice or vacant ecclesiastical chaperly [which requires some clerical orders in the person called to it]; such persons can be promoted to the first tonsure, although they may not have been able to observe the prescribed rules, that is, the wearing of the clerical dress, the attendance upon the schools and at the sacraments, and the triennial service of the Church, and although they may not be of the age determined upon above in cases respecting benefices founded before the holy Council of Trent; and furthermore, on the understanding that from the regulations above specified are to be excepted those who are *artati* only in the case where the benefice or curacy is really ecclesiastical, that is, founded with perpetual ecclesiastical authority, and to be filled *titulo collativo*, or by institution, and that the patrons of it cannot defer beyond the time appointed by the holy canons the nomination and presentation to the same; and finally, under the condition that the net revenues of the said benefices and ecclesiastical chaperly do constitute at least one-half of the established amount of qualification in the diocese to which the individual to be promoted belongs.

And inasmuch as there are sometimes many claimants to the same benefice or ecclesiastical curacy, the ordinaries are obliged to confer the first tonsure upon all, in order to render them equally capable of holding the benefice or curacy, whence follows the useless multiplying of ecclesiastics, it being only possible to confer the benefice or curacy upon one; therefore, when this occurs, it shall be henceforth sufficient that they who claim a right to the benefice or curacy in dispute, appear at the proper time before their ordinary, and being found eligible by him, both *quoad scientiam* and *quoad bonos mores*, and free from any canonical impediment to their promotion to the first tonsure, that he grant them testimonials of fitness and of their freedom from canonical impediment to promotion to the first tonsure, in virtue of which they may bring forward their claims and prosecute the cause before the ecclesiastical judge, even in competition with the ecclesiastical candidates, precisely as if they had already received the first tonsure, which at the termination of the cause may be conferred upon him who shall have obtained the benefice or curacy, considering him to that end *artato*, and granting him the enjoyment of those privileges which have been conceded to such persons as above.

XV. After having been thus ordained to the first tonsure, all the ecclesiastics, including also the *artati*, should seriously apply themselves both to study and to works of piety, to render themselves worthy to rise to holy orders when they shall attain the legitimate age, to which end they should continue to reside in some seminary or ecclesiastical college, or being unable so to do, they should at least perform during every year, or for the greater part of it, as above, such service in the Church assigned to them by the proper ordinary as shall be prescribed by him; or residing in some university or other place of instruction, to attend the schools and prosecute their studies, they should perform those same things ordained above for those who are to be initiated to the first tonsure.

Every ecclesiastic, as well those of the first tonsure as of the minor orders, shall prove at the beginning of every year to the ordinary of the place in which he resides, that he has observed the rules prescribed by the holy Council of Trent, with respect to dress and clerical tonsure, and concerning all the other matters ordained above; and that by means of a certificate from his own rector, or the superior of the seminary or ecclesiastical college, for those who are in a seminary or ecclesiastical college, and for those ecclesiastics who are not in a seminary nor in an ecclesiastical college, by a certificate from the parish priests, rectors of the churches to which they belong, relative to the wearing of the dress and clerical tonsure, attendance at the sacraments, and service of the Church, and with the certificates of the masters and professors relative to attendance at the schools and continuation of studies, and to the wearing of the dress and clerical tonsure; and on the other hand, the said ordinaries are to keep suspended in the sacristy of their cathedral, so that it may be read by every one, a table from which, not having considered the said certificates, which are to be preserved in their court, as satisfactory, they shall cause to be erased every year the names of those whom they shall have found not to have strictly observed the aforesaid directions, and on the contrary shall cause to be registered the names of those only who shall have observed them, to whom they shall grant every year gratis a certificate in

writing to that effect, in order that they may by that means enjoy without opposition all the ecclesiastical privileges; and which privileges, on the other hand, shall not be enjoyed by those ecclesiastics invested with the first tonsure or minor orders, who, from not having observed the aforesaid directions, shall have been erased from the aforesaid table to be kept publicly in the sacristy, and who shall not receive the before-mentioned certificate from the bishop.

The capitular vicars shall not be allowed henceforth, without the vote of the full chapter to be given in the usual chapter-house, by a majority of secret votes, to be reckoned according to the custom of each chapter, and to be registered in the record of their proceedings, to grant dimissory letters to lay brothers, although they may be really *artati*, on account of a benefice or of a chapelry, which may be truly ecclesiastical in the manner explained above, but only to those who, having already the first tonsure, have been presented to some benefice or curacy, which *actu requirat certum ordinem*, and with the express condition that in the one case as well as in the other he who desires to be promoted shall not have been previously rejected by the preceding bishop: but where the question is relative to persons who are not really *artati* in the sense above specified, the dimissory letters shall not be granted, not even *post annum luctus Ecclesiæ*, without an express licence from the Holy Congregation of the Council.

Whosoever shall be promoted to the first tonsure, to the minor orders, or to holy orders, contrary to the form prescribed in the present Regulation, besides the penalties before alluded to, shall remain perpetually suspended from the exercise of the orders already conferred upon him; and whoever shall have thus ordained him, or shall have granted dimissory letters to that end, if he be a bishop shall be suspended for a year from the collation of orders and from the exercise of pontifical powers; and if he be not a bishop, but an inferior prelate with pontifical powers, he shall be for ever suspended from the use of them; and if he have not such powers, and be only a person constituted in some other dignity, he shall be for ever suspended from the exercise of his office or of his orders.

Finally, the Minister Apostolic [at Turin] shall take care to transmit a copy of the present Instruction to the bishops and ordinaries of places, enjoining the exact observance thereof, and His Majesty the King of Sardinia is requested to transmit it to his tribunals, and to command that it shall be observed and entered into their public registers, in order that for the future whatever is prescribed by the present Instruction may be punctually observed.

Inclosure 5 in No. 21.

Memorandum from the Great "Cancellaria."

DARE copia de' Concordati o Convenzioni esistenti tra questo Reale Governo e la Santa Sede aventi per iscopo di definire e regolare le relazioni della Chiesa col potere civile negli Stati du Sua Maestà.

Come si scorge dalla nota del 21 Dicembre, 1850, già si è soddisfatto a questa richiesta colla trasmissione d'un esemplare della Raccolta de' Trattati di questa Reale Corte colle Potenze estere; contenendosi nella detta collezione i Concordati o Convenzioni richieste che emanarono fin da' remoti tempi colla Corte di Roma, cominciando da' più antichi in seguita all' Indulto di Niccolò V, del 1451, coi quali vennero di tempo in tempo regolati varii punti della disciplina ecclesiastica: non esiste un Concordato apposito, col quale siano regolate in generale le relazioni della Chiesa col potere civile, ne definiti i limiti dell' una e dell' altra suprema podestà.

Qual sia la costituzione dei redditi delle Mense Metropolitane e Vescovili, e principalmente se gravitino sulle finanze dello Stato?

I redditi degli arcivescovati e vescovati dipendono generalmente dalle primitive dotazioni, colle quali furono eretti da tempo immemoriale. Queste dotazioni si compongono per la maggior parte, di bene stabili, e di qualche rendita proveniente da impieghi di capitali in censi od altri redditi territoriali. Sono anche dovute in gran parte sifatte dotazione ad atti di liberalità dello Stato verso la Chiesa; d'onde deriva il diritto di nomina e patronato sui vescovati; il quale diritto riconosciuto di poi formalmente dalla Santa Sede, venne finora senza veruna difficoltà esercitato del Rè. Nella Savoja però la Sedi Vescovili sono provviste di dotazione mediante rendite sul debito pubblico dello Stato; e gravita similmente sullo Stato la dotazione del Vescovato di Nizza; essendo state quelle provincie occupate dai Francesi prima dell' invasione del Piemonte, ed avendone pur anche occupati ed alienati, cogli altri beni ecclesiastici, anchi quelli, ond'erano anticamente quelle sedi provviste.

Nella Savoja godono inoltre d'un congruo assegnamento sui fondi provinciali. Qualche altra illitra ancora gode la massima parte delle sue rendite sul pubblico tesoro, come l'Arcivescovato di Genova, il Vescovato di Susa, &c.

Si le bolle i rescritti ed altre provvidenze Pontificie possano essere pubblicate senzachè il Reale Governo ne abbia preventiva cognizione e loro conceda dapprima la sua sanzione, e se nel caso contrario, esse abbiano forza obbligatorio nei Reali Stati.

Qualunque provvisione di Roma prima di essere mandata ad effetto deve essere munita del Reale exequatur, a termine de' Concordati e degl'usi vigenti, secondo la forma del Reale Decreto, 25 Aprile, 1848; altrimenti non possono aver riguardo presso i tribunali, nè mandario ad esecuzione dal prelato, o da chiunque ne fosse nella provvisione stessa incaricato. Sono soltanto eccettuate le provvisione concernenti a materie meramente spirituali, come le bolle dogmatiche, quelle per le indulgenze, giubbilei, etc., anzi ne' paesi della Savoja, ed in quegl'altri, dove si osservano tuttora gl'usi Gallicani, non ne sono esenti, se non i brevi della Sacra Penitenzieria, ossia le lettere sigillate che si trasmettono a' confessori per dar loro la facoltà di assolvere da certi peccati riservati at Papa. Si è sempre mantenuto con particolar attenzione, l'esercizio dell' exequatur; e come potevasi altrimenti senza dimettersi da uno dei più essenziali diritti di sovranità, senza compromettere l'indipendenza e la sicurezza dello Stato? Esistono provvidenze di tempi più remoti della Monarchia, relative al gradimento da concedersi per parte della podestà civile per l'esecuzione de' provvedimenti della Santa Sede. Anche da tempi molto antichi si hanno regolamenti del Principe relativi a questa materia. Ne era dapproma affidata l'ispezione a' Governatori, quindi venne commessa alle Supreme Corti di Gustizia ossia a' Senati. Essi avevano per istruzione che non si

pubblicasse nè n'eseguisse alcuna bolla, breve, rescritto, o decreto, senza chè fossero prima stati presentati all'exequatur con inibizione a' Notaj di ricevere alcun atto d'immissione in possesso di beneficii, come neppure d'alcuna esecuzione di provvisioni procedenti da Roma, e nemmeno autenticare le copie delle bolle ed altre provvidenze che non fossero munite dell'exequatur.

Questo diritto di sovranità, ossia questa regalià dell'exequatur come denominavasi dagli antichi regolamenti, venne poi anche riconosciuta dalla Corte di Roma, come ne fa fede la Concordata Istruzione Pontificia di Benedetto XIV, del 1742, relativa al Concordato del 1727.

Riunitosi lo Stato di Genova alla Corona di Savoia venne il sistema del Piemonte esteso a' quei nuovi paesi della Monarchia, mediante un istruzione al Senato di Genova, annessa al Biglietto Regio degli 8 Agosto, 1815. Sono ivi dichiarate *ineseguibili* le provvisioni soggette all'*exequatur*, se quello non sarà dapprima implorato ed ottenuto.

Nel 1787, il Rè, sull'esempio d'altre Corti, stabilì in Roma un suo Agente, ordinando che dal 1 Gennajo, 1788, tutti i ricorsi de' suoi sudditi, nissuno di essi eccettuato, diretti ad ottenere provvidenze che dovessero avere effetto nel foro esterno, dovessero essere indirizzati a quel nuovo Reale Ufficio: da cui fatte passare agli spedizionieri pure dal Governo stabiliti colle opportune istruzioni per la più pronta e vantaggiosa maniera di dirigerli, venivano poi da' medesimi ritirati colle emanate provvidenze, ed in seguito rimandati agl'impetranti accompagnati da un certificato dello stesso agente, comprovante l'ingerenze da lui presa nella spedizione; e contemporaneamente i Senati venivano avvertiti che non avessero a dare corso a veruna provvisione, senza che loro fosse pur presentata la detta attestazione. Il fine essenziale di sifatto stabilimento si era di prevenire inopportune discussioni e le spese per l'impetrazione delle provvidenze che avrebbero poi da trattenersi all'exequatur.

Sussiste ancora attualmente un tale ordine di cose, venendo le incumbenze dell'antica Agenzia ora adempiute dalla Cancelleria della Regia Legazione presso la Santa Sede.

(Translation.)

TO make a copy of the existing Concordats or Conventions between this Royal Government and the Holy See, for the purpose of establishing and regulating the relations of the Church with the civil power in the States of His Majesty.

This request has already been complied with, as appears by the note of the 21st December, by forwarding a copy of the collection of the Treaties of this Royal Court with the foreign Powers, which collection contains the Concordats or Conventions which were asked for, and which were made since the most remote periods with the Roman Court, beginning from the oldest, since the Indult of Nicholas V, in 1451, by which were from time to time regulated various points of the ecclesiastical discipline; there is not, however, a proper Concordat, by which the relations of the Church with the civil power might be regulated, nor are the limits of these two superior powers determined.

What be the constitution of the metropolitan and episcopal revenues, and principally if they are charged on the finances of the State?

The revenues of the archbishops' and bishops' sees generally arise from the primitive dotations with which they were instituted from time immemorial. These dotations are principally composed of landed property and of some interest of money on mortgages, loans, or other territorial or land-rents. These dotations are sometimes greatly owing to liberalities of the State in favour of the Church, from whence arises the right of nomination and patronage over the episcopal sees; which right, having been afterwards formally recognized by the Holy See, has been till now without any difficulty exercised by the King. In Savoy, however, the episcopal sees are provided with dotations by rents on the public debt of the State; the dotation of the Bishop of Nice is also borne by the State,

these provinces having been occupied by the French before the invasion of Piedmont, and the property which constituted their dotations having been occupied and alienated, together with all the other ecclesiastical funds, including those with which those sees were anciently provided.

In Savoy they also enjoy an appropriate allowance from the provincial funds. Some other bishoprics still derive the greater part of their revenues from the Public Treasury, such as the Archbishopric of Genoa, the Bishopric of Susa, &c.

If bulls, decrees, and other Pontifical provisions (documents subandi) may be published without previous notice to the Government and its sanction thereof, and if not, if they can be obligatory and enforced in the Royal States?

All provisions (documents subandi) from Rome, before they are put in execution, must be invested with the Royal exequatur, in conformity with the Conventions in existing use, according to the form of the Royal Decree of April 25, 1848, or they cannot be taken into consideration at the tribunals, nor be put in execution by the prelate or by any other party charged therewith. The only exceptions are—provisions respecting matters purely spiritual, such as dogmatical bulls, and those for indulgences, jubilees, &c. In Savoy and in the other countries where the Gallican customs are still in use, nothing is exempt, but the briefs of the Sacred Penitentiary, or the sealed letters sent to confessors with powers to absolve from certain sins reserved to the Pope.

The right of the exequatur has always been maintained with especial care; and how could it be otherwise, without renouncing one of the most essential rights of sovereignty, without compromising the independence and the security of the State? There are providences of the most ancient times of the monarchy relative to the approbation to be granted by the civil power for the execution of the provisions of the Holy See.

Even from very ancient times there are regulations of the Prince relative to this matter. The inspection was at first entrusted to the Governors, afterwards it was committed to the Supreme Courts of Justice or Senates. Their instructions were, that no bull, brief, letter, or decree should be published or executed until it had been presented for the exequatur; with prohibition to the notaries, to receive any act of admission to benefices, as well as to every execution of the provisions proceeding from Rome, even to authenticate the copies of the bulls and other providences which were not invested with the exequatur.

This right of sovereignty, or this gift of the exequatur, as denominated by the old regulations, was subsequently recognised by the Court of Rome, as is proved by the Concordat, Pontifical Instruction of Benedict XIV. in 1742, relative to the Concordat of 1727.

When the State of Genoa was united to the Crown of Savoy, the system of Piedmont was extended to those new countries of the monarchy by an instruction to the Senate of Genoa, annexed to the Royal Decree of the 8th of August, 1815. The provisions subject to the exequatur are therein declared inexecutable, if that shall not have been from the first asked and obtained.

In 1787, the King, following the example of other Courts, established an agent in Rome, ordering that, from the 1st January, 1788, all petitions of his subjects, without exception, intended to obtain provisions that should have their effect in a foreign Court, should be addressed to that new Royal office, from which they were to be passed on to the Commissioners, likewise appointed by Government, with proper instructions for the quickest and most advantageous way of managing them, they were subsequently by the same withdrawn, together with the provisions enacted thereon, and delivered to the petitioners, accompanied with a certificate of the same agent, proving his interference in the expediting thereof, and at the same time the Senates were directed to give no course to any provision if such certificate were not also presented.

The main object of such establishment was to avoid inopportune discussions and the expenses of petitions for providences which would have to be detained by the exequatur.

Such order of things is still existing, and the attributions of the old agency are now performed at the office of the Royal Legation to the Holy See.

Inclosure 6 in No. 21.

Article of the Royal Decree of Victor Amedeus II, of July 2, 1728.

Articolo di Reale Biglietto di Sua Maestà Vittorio Amedeo II, diretto ai Reali Senati, in data 2 Luglio, 1728, in ordine all' esecuzione delle Provvidenze Pontificie nei Reali Dominj, tuttavia in pieno vigore.

EXEQUATUR.

ABBIAMO altresì ristabilito l'uso dell' exequatur; il Concordato porta che vediate le bolle, e brevi apostolici, senza però porre alcun segno, nè fare alcun decreto in ordine all' esecuzione sopra di essi, e ciò è coerente allo stile che avete fin' ora praticato di farla vostra provvisione a parte, cioè sul ricorso di chi le presenta, csi continuerete ad osservare.

Non permetterete adunque che venga publicata, nè in verun modo eseguita non solamente alcuna bolla o breve apostolico, ma nemmeno alcun rescritto, decreto, o altro provvedimento il quale emani sí dalla Corte di Roma, che generalmente da fuori Stato, senza esserne prima presentato l'originale, accompagnato da un memoriale sottoscritto da coloro che gli avranno ottenuti, o da un procuratore a ciò specialmente deputato.

Ordinerete che sieno comunicati all'Avvocato-Generale, per esaminare se contengano cosa pregiudiziale alla nostra giurisdizione, o alle nostre regalie, indulti, privilegj o usi de' nostri paesi, o se sono contrarj al publico-bene, ed in questo casi li tratterete, e ne impedirete l'esecuzione o la pubblicazione, e spedirete negli altri il vostro decreto per l'exequatur, servata la forma che avete praticata presentemente per le bolle di provvista de' vescovati ed altri benefizj.

A riguardo però delle indulgenze, giubilei, dispense di matrimonio, di "ante tempus" o "d'extra tempora," basterà che si presentino all' Avvocato Generale, il quale ve ne informerà, e non avendo voi cosa in contrario, ne farete registrare sostanzialmente il contenuto, indi si restituirà a chi spetta senz'altro.

E rispetto alle lettere, a decreti delle congregazioni, ce la farete tenere, ed aspetterete i nostri ordini.

E come le bolle e brevi apostolici sono per lo più di materia beneficaria, stimiamo bene di darvi i seguenti avvertimenti.

1°. Che nelle bolle di beneficj di nostra nomina debba questa esservi espressa nel modo che è stato praticato nella presente provvista delle nostre chiese.

2°. Che questi benefizj non sieno gravati d'altre pensioni che di quelle le quali saranno riservate da noi, locchè deve altresì essere espresso nelle bolle d'imposizione colle solite formole, eccettuatane solamente la pensione delli scudi 1500 che abbiamo lasciata alla disposizione Pontificia sopra l'Abbazia di Luccedio, la distribuzione della quale dipende liberamente dall'arbitrio del Papa.

3°. Quanto a beneficj minori, che non si conferiscano a stranieri, ma solamente a sudditi, come dispongono i nostri indulti, salvo nei casi che avessero il nostro gradimento, e rispetto a sudditi esplorerete prima se ci sono grati, e ve ne spiegheremo i nostri sensi per via d'una nostra lettera.

4°. Che non vengano provveduti da Roma ne' mesi degli ordinarj, o liberamente se sono di patronato nostro o d'altri.

5°. Che non s'impongano pensioni sopra le parrocchiali, o cure per essere state dispensate (subandi) dal Papa Innocenzo XII, e da questo Pontefice per bolla delli 8 delli idi di Dicembre 1724, e nemmeno sopra quelli che non hanno più della congrua.

6° Nei casi che il beneficio è capace di pensioni, queste non si diano ad altri che a sudditi.

7°. Che i benefizj non s'uniscano o rispettivamente si dividano, e si aggregino a mani morte, o si diano in commendà senza il nostro assenso.

8°. Che non si conferiscano le coadiutorie, se non nei casi che vi abbiamo accennato.

Venendo poi alle provviste sì di libera collazione, che di patronati, le quali emanano dalle curie dei vescovi de' nostri State, o de' stranieri che vi hanno una parte della diocesi, invece che fin' ora erano da provvisti presentate solamente al giudice del luogo, vogliamo per l'avvenire che il giudice, quelle ricevute, ve le trasmetta prima di permettere ad essi che pigolino il possesso del beneficio, acciò lo esaminiate, e farete intendere ad ognuno de' giudici e potestà di così fare, senza però scriverne ad essi, ma solamente a Prefetti, che li chiamino a se, e gliene diano l'istruzione in voce.

Vi abbiamo dato tutti questi lumi per mettervi sulla strada di quello che dovete fare in ordine all' *exequatur*, non vogliamo però che tratteniate, lo diate corso ad alcuna bolla, breve, rescritto, od' altro provvedimento emanato dalle curie ecclesiastiche sì de' nostri, che d'alieni Stati, o dalla Corta di Roma, senza prima averne i nostri sensi, onde presentati che vi saranno, ce li trasmetterete con il vostro sentimento, ed aspetterete gli ordini che stimeremo di darvi, eccettuatene solamente le indulgenze, i giubilei, le dispense de' matrimonj "d'ante tempus" ed "extra tempora," a quali potete senza altro dar corso ove non contengano cosa che vi persuada di trattenerle ed' informarcene.

(Translation.)

Article of the Royal Decree of Victor-Amedeus II, directed to the Royal Senates, dated July 2, 1728, in order for the execution of the Pontifical arrangements in the Royal Dominions, in full vigour at the present time.

EXEQUATUR.

WE have also re-established the use of the *exequatur*; the Concordat orders that you should see the bulls and apostolical briefs, without, however, putting any mark, or making any decree in order to their execution; and this is coherent with the style which you have until now practised of making your provision apart; that is, at the recourse of the applicant; and this you will continue to do.

You will not, therefore, permit to be published, or in any manner executed, not only any bull or apostolical brief, but not even any rescript, decree, or other provision which shall proceed either from the Court of Rome or from any other place out of the kingdom, without the original being first presented, accompanied by a memorial subscribed by those who shall have obtained it, or by a procurator specially deputed for the purpose.

You will order that they should be communicated to the Advocate-General, to examine whether they contain anything prejudicial to our jurisdiction or to our Government, laws, privileges, or the customs of our country, or whether they be contrary to the public welfare; and in these cases you will detain them and prevent their execution or publication; otherwise you will send your decree for the *exequatur*, preserving the forms which you observe at present for bulls providing bishoprics and benefices.

With regard, however, to indulgences, jubilees, dispensations of marriage, of *ante tempus* and *extra tempora*, it will be sufficient to present them to the Advocate-General, who will inform you concerning them; and if you have nothing to the contrary, you will cause the substance of the contents to be registered, after which you will restore them to the owners.

And with respect to letters, or decrees of congregations, you will cause them to be delivered to us, and await our orders.

And as the bulls and apostolical briefs are for the most part concerning benefices, we think it well to give you the following directions :

1. That in bulls of benefices of our nomination, this latter should be expressed in the manner which is practised in the present provision of our churches.

2. That those benefices should not be laden with any other pensions than those which we shall reserve to ourselves, which must also be expressed in the bulls of imposition, with the usual forms, excepting only the pension of 1500 crowns which we have left at the Pontifical disposition on the Abbey of Lucedio, the distribution of which is entirely at the disposal of the Pope.

3. As to the lesser benefices, they may not be conferred on strangers, but only on subjects, as is ordered by our regulations, save in particular cases, which should have our consent ; and with respect to subjects, you must first discover whether they are agreeable to us, and we will give you our decision by means of a letter.

4. That no provisions should arrive from Rome in those months in which the ordinaries have power, or freely if they be in our patronage or that of others.

5. That no pensions should be imposed on the parochial churches or curacies (they having been exempted therefrom by Pope Innocent XII, and by this Pontiff in his bull of the 8th of the ides of September, 1724), nor on those which have not more than a sufficient income.

6. In the cases where the benefice is capable of pensions, these should not be given but to subjects.

7. That the benefices should not be united, or respectively divided, or aggregated in mainmost, and given *in commendam*, without our assent.

8. That the coadjutorships should not be conferred except in the cases which we have mentioned.

Coming now to the provisions, whether of free collation or of patronage, which proceed from the curacies of bishops of our States, or of strangers who have there a part of their diocese, whereas until now they were presented by the pensioned only to the judge of the place, we order for the future, that the judge, having received them, shall transmit them to you, before permitting these individuals to take possession of the benefice in order that you may examine it, and you will give notice of this to each judge and podestà, without, however, writing to them, but only to the Prefects, that they should call them to themselves and give them these instructions by word of mouth.

We have given you all this information to guide you as to what you must do in order for the exequatur. We will not, however, that you should detain or give course to any bull, brief, rescript, or other provision emanating from the ecclesiastical curacies, whether of this realm or of foreign States, or from the Court of Rome, without first having our commands regarding it; therefore, when any such are presented to you, you will transmit them to us, with your opinion, and you will await the orders which we shall think fit to give you ; excepting only in the case of indulgences, jubilees, dispensations of marriage, of *ante tempus* and *extra tempora* ; when you may without delay give course to them, if they do not contain anything which should require you to detain them, and to inform us of it.

Inclosure 7 in No. 21.

Form of Oath to be taken by New Cardinals.

EGO Sanctæ Romanæ Ecclesiæ Cardinalis promitto, et juro me ab hac hora deinceps quamdiu vixero fidelem, et obedientem Beato Petro, Sanctæ Apostolicæ Romanæ Ecclesiæ ac SS. D. N. Papæ ejusque successoribus canonice legitimeque electis futurum; nullum consilium, aut consensum, vel auxilium adversus Pontificiam Majestatem, aut personam præstiturum; consilia mihi ab eis per se, aut Nuncios, aut per litteras, credita nemini, unquam scientem, prudentemque in eorum

damnum vel dedecus enunciaturum; proesto item eis futurum ut ipsi Papatum R. et regalias Petri retineant, defendant, et recuperent (salvo meo ordine) adversus omnes; honorem, et statum eorum omni studio, et totis viribus propugnaturum; Legatos et Nuncios S. Apostolicæ benigne, et honorifice, in terris ecclesiarum, monasteriorum, et aliorum beneficiorum mihi commissorum, directurum, et defensurum, ipsisque unanimiter curaturum et eosdem in eundo, morando, et redeundo honorifice tractaturum; et quibuscumque contra eos aliquid conantibus usque ad sanguinem restitutum; jura, honores, privilegia, et auctoritatem Sanctæ Romanæ Ecclesiæ D. N. Papæ, et successorum prædictorum conservare, augere et promovere omnibus sensibus conaturum. Ubi vero contra illa aliquid prejudicii, quod a me impediri nequeat machinando intentetur, statim atque procurari, vel tractare noverim, eidem D. N., vel successoribus prædictis, aut alteri per quem possit ad notitiam eorum perferri, significaturum. SS. Patrum regulas, decreta, et ordinationes, dispensationes, reservationes, provisiones, et mandata Apostolica, et Constitutiones F. R. Sixti P. S. de visitandis liminibus Apostolorum certis præscriptis temporibus juxta illius tenorem, nuper a me perlectum, observaturum, et adimpleturum; ab aliis observari, et adimpleri procuraturum; hereticos, scismaticos, et rebelles eidem D. N. Papæ vel successoribus prædictis omni conatu persecuturum et impugnaturum. Accersitum ab eodem SS. D. N. et successoribus prædictis ex quacumque causa, ad eos profecturum, vel justo impedimento detento excusotorem missurum, eisque reverentiam et obedientiam debitas exhibiturum. Possessiones ad mensam ecclesiarum, monasteriorum, et aliorum beneficiorum mihi commissorum, seu ad illa quomodolibet pertinentes, nequaquam venditurum, neque donaturum, neque oppignoraturum, neque de novo infeudaturum, neque aliter alienaturum, inconsulta R. E., etiam cum consensu capitulorum, seu conventuum, ecclesiarum, monasteriorum, vel beneficiorum eorundem; et Constitutionem B. Pii V quæ incipit admonet sub datum Romæ 4 Kal. Aprilis, anno Inc. Dom. 1567. Pontific. sui anno 2, una cum declarationibus P. Pontificum successorum, præsertim Innocentii Papæ IX, sub datum Romæ pridie nonas Novembris, anno Inc. Dom. 1591, Pontif. sui anno 1; et fel. record. Clementis VIII, sub datum Romæ 16 Kal. Martii, anno 1592, Pontific. sui anno 10, de civitatibus, et locis. Sanctæ Romanæ Ecclesiæ non infeudandis, seu alienandis, perpetuo observaturum; nec non perpetuo et inviolabiliter observare promitto, atque juro decreta, et incorporationes facta et factas per eundem Clementem VIII sub diebus 26 Junii, prædicti anni 1592, die 2 Novembris, 1592; 19 Januarii et 11 Februarii, 1698, de civitate Ferarie, et toto ejus ducatu, nec non de civitatibus et locis quibuscumque, per obitum B. M. Alphonsi ultimi Ferarie Ducis, seu alias ad Sanctæ Romanæ Ecclesiæ et S. Ap. devolutis ab eo recuperatis.

Item decreta, et incorporationes, facta et factas de R. M. Urbanum VIII, die 12 Maij, 1631, de civitatibus Urbini, Eugubii, Calii, Jorisempromii, totoque Urbini Ducatu, nec non de civitatibus Pisauri, Sinogalliæ, S. Leonis, cum Statu Montis Feltri, et Vicariatu Mondovii, aliisque oppidis et locis quibuscumque, per obitum B. M. Francisci Mariæ ultimi Ducis, seu alias ad Sanctæ Romanæ Ecclesiæ Apostol. devolutis et recuperatis. Item decretum et incorporationem per F. R. Alexandrum VII die 20 Decembris, 1660, in concistorio factum et factam de Ducatu Castri, statuque Roncilionis, atque aliorum locorum, terrarum, seu bonorum, alias per Rainuntium Parmensem Ducem. Cam. Apostol. venditorum, et constitutionem ejusdem fel. record. Alexandri VII ratione, et oratione decreti, et incorporationis hujusmodi die 24 Januarii, 1661, publicatam cum confirmatione, innovatione, extensione, et declaratione aliorum Decretorum et Constitutionum per SS. Pontifices de non infeudando editarum, et contra ipsas et ipsa, quocumque tempore, et quacumque causa, colore, titulo, vel occasione etiam evidentis necessitatis et utilitatis nullo modo directe, vel indirecte, venire, tractare, ordiri, aut machinare, aut auxilium, seu consilium dare, et consensum præstare: quin imo cuicumque tractatui, et machinationi semper, et perpetuo dissentire, opponere, et resistere; ac quascumque machinationes et tractatus quidquid ad meam notitiam pervenerit, per me ipsum, seu per meum Nuncium S. Suæ et ejus successo-

ribus legitime intrantibus statim revelare, tam sub pœnis indictis constitutionibus contentis, quam aliis quibuscumque gravioribus Sanctitati suæ, et ejus successoribus prædictis bene visis.

Item Constitutiones Sixti Papæ V de 300 milibus nummorum aureorum in arce Sancti Angeli repositis, ac alteram F. R. Innocentii Papæ XII, moderatoriam donationum, et distributionis reddituum ecclesiasticorum in consanguineos, vel affines R. Pontificis sub datum Romæ apud S. M. Majorem anno Incar. Dni. 1592, 10 Kal. Julii Pontific. sui anno 1; et demum Litteras memorati Urbani VIII, sub datum Romæ S. Petrum anno Incar. Dni. 1629, 9 Kal. Februarii, Pontific. sui anno 111. Confirmationis Bullæ, rec. mem. Gregorii Papæ XVI, de electione Romani Pontificis, juxta illarum tenores a me perlectos et plene cognitos. Item omnia et singula, quæ per eundem Urbanum, seu S. R. E. Cardinales, vel alios ab eo deputatos, vel a SS. Dno. Nostro, aut pro tempore existente Romani Pontifice ad hoc specialiter deputandos, et præcipue omnia et singula decreta, et Sacra Cerimoniali Congregatione, hactenus emanata, et in posterum emanatura pro sublimi ejusdem Cardinalatus honore, et dignitate conservanda, decerni, statui, et ordinari contigerit, et signanter motum proprium ejusdem Innocentii Papæ X confirmationis decreti ab eadem Sacra Cerimoniali Congregatione facti super equalitate inter S. R. E. Cardinales servanda in honorificis appellationibus, seu titulis eorum cuilibet attribuendis, et super expunctione coronarum, aliarumque notarum secularium a gentilibus eorundem Cardinalium insignibus, sigillis, seu armis, sub datum Romæ, apud S. Petrum, anno Incarn. Domini 1644, 14 Kal. Januarii, Pontificatus sui anno primo, juxta illius tenorem mihi plane cognitum, me ad unguem observaturum; neque quidquam quod ejusdem Cardinalatus honori, et dignitati quovis modo, et ex quavis causa repugnet, aut diminuat, acturum; juraque annuli Cardinalitii per eundem Gregorium XVI, Congregationi de Propaganda Fide concessa, et applicata eidem Congregationi, juxta concessionis et applicationis hujusmodi formam, et tenorem persoluturum; et super præmissis omnibus absolutionem non petiturum; et oblatam, nullo modo, recepturum. Sic me Deus adjuvet, et hæc Sacrosancta Evangelia.

(Translation.)

I, ———, Cardinal of the Holy Roman Church, do promise and swear that from this hour until my life's end, I will be faithful and obedient unto St. Peter, the Holy Apostolic Roman Church, and our Most Holy Lord the Pope and his successors, canonically and lawfully elected; that I will give no advice, consent, or assistance against the Pontifical Majesty and person; that I will never knowingly and advisedly, to their injury or disgrace, make public the counsels entrusted to me by themselves, or by messengers or letters (from them); also that I will give them any assistance in retaining, defending, and recovering the Roman Papacy and the Regalia of Peter, all my might and endeavour, so far as the rights and privileges of my order will allow it, and will defend against all their honour and state; that I will direct and defend with due favour and honour, the Legates and Nuncios of the Apostolic See, in the territories of the churches, monasteries, and other benefices committed to my keeping; that I will cordially co-operate with them, and treat them with honour in their coming, abiding, and returning; and that I will resist unto blood all persons whatsoever who shall attempt anything against them; that I will, by every way, and by every means, strive to preserve, augment, and advance the rights, honours, privileges, and authority of the Holy Roman Bishop, our Lord the Pope, and his before-mentioned successors; and that at whatever time anything shall be devised to their prejudice, which it is out of my power to hinder, as soon as I shall know that any steps or measures have been taken (in the matter), I will make it known to the same our Lord, or his before-mentioned successors, or to some other person, by whose means it may be brought to their knowledge.

That I will keep and carry out, and cause others to keep and carry out the rules of the Holy Fathers, the decrees, ordinances, dispensations, reservations, provisions, Apostolical mandates, and the constitutions of the Holy Pontiff Sixtus, of happy memory, as to visiting the thresholds of the Apostles, at certain prescribed times, according to the tenor of that which I have just read through.

That I will seek out and oppose (persecute and fight against?) heretics, schismatics, against the same our Lord the Pope and his before-mentioned successors, with every possible effort. When sent for, from whatever cause, by the same our Most Holy Lord, and his before-mentioned successors, that I will set out to present myself before them, or being hindered by a legitimate impediment, will send some one to make my excuses; and that I will pay them due reverence and obedience. That I will by no means sell, bestow away, or pledge, or give away in fee or otherwise alienate, without the advice and knowledge of the Bishop of Rome, even with the consent of the said chapters, convents, churches, monasteries, and benefices, the possessions set apart for the maintenance of the churches, monasteries, and other benefices committed to my keeping, or in any way belonging to them. That I will for ever maintain the Constitution of the blessed Pius V, which begins "*Admonet*," and is dated from Rome on the 4th of the calends of April, of the year of our Lord's incarnation, 1567, and the 2nd of his Pontificate; together with the declarations of the Holy Pontiffs, his successors, particularly of Pope Innocent IX, dated at Rome the day before the nones of November, of the year of our Lord's incarnation, 1591, of the 1st of his Pontificate, and of Clement VIII, of happy memory, dated at Rome on the 16th of the calends of March, in the year 1592, and the 10th of his Pontificate, on the subject (in the matter) of not giving away in fee or alienating the cities and places of the Holy Roman Church. Also I promise and swear to keep for ever inviolate the decrees and incorporations made by the same Clement VIII on the 26th day of June of the before-mentioned year 1592, on the 2nd day of November, 1592, and on the 19th of January, and the 11th day of February, 1698, in the matter of the city of Ferrara and the whole duchy thereof, as well as respecting all other cities whatsoever, and places recovered by him, and which fell in by the death of Alphonso, of happy memory, the last Duke of Ferrara, or otherwise to the Holy Roman Church and Apostolic See. Also the decrees and incorporations made by Urban VIII, of happy memory, on the 12th day of May, 1631, respecting the cities of Urbino, Engubio, Carlii, Jorisempronium, of the whole Duchy of Urbino, as well as in the matters of the cities of Pisauri, Sinogallia, S. Leo, the State of Monte Feltro, the Vicariate of Mondovi, and of the other cities and places whatsoever recovered by and having devolved to the Holy Roman Apostolic Church by the death of Francis Maria, the last Duke, or otherwise. Also the decree of incorporation made in Consistory on the 20th day of December, 1660, by Alexander VII, of happy memory, in the matter of the Duchy of Castri and the State of Ronciglioni, and other places, lands, and properties sold to the Apostolic Chamber by Raimuntius, Duke of Parma; and the constitution of the same Alexander VII, of happy memory, with the reason of and allocution upon the decree for incorporations of this kind, published on the 24th of January, 1660, together with the confirmation, innovation, extension and declaration of the other decrees and constitutions of the Holy Pontiffs, issued in prohibition of parting with them in fee; and in no way and at no time, either directly or indirectly, whatever cause, colour, or occasion, even of evident necessity or utility may present itself, to act against them or to give advice, counsel or consent against them in any way, but, on the contrary, always and constantly to dissent from, oppose, and reveal every device and practice against them, whatever may come to my knowledge by myself or by any messenger, immediately to His Holiness, or his successors, lawfully entering, under the penalties (in case of neglect or disobedience) contained in the said constitutions, or any other heavier ones that it may seem fit to His Holiness and his before-mentioned successors (to inflict).

Also the Constitutions of Pope Sixtus V, respecting the 300,000 pieces of gold laid up in the Castle of St. Angelo, as well as that other one

of Pope Innocent XII, of happy memory, restraining grants, and apportionments of ecclesiastical revenue to the blood relations and connexions of the Roman Pontiff, dated from St. Maria Maggiore, in Rome, in the year of our Lord's incarnation, 1592, on the 10th of the calends of July, and the first year of his Pontificate. And, finally, the letters of the already mentioned Urban VIII, dated from St. Peter's, in Rome, in the year of our Lord's incarnation, 1625, and on the 5th of the calends of February, the 3rd of his Pontificate, confirmatory of the bull of the late Pope Gregory XVI, for the election of the Roman Pontiff, according to the tenor of them just read by me and fully understood. Also all and several the things decreed, appointed, and ordained, whether by the same Urban or the Cardinals of the Holy Roman Church, or by others deputed by him, or by our Most Holy Lord the Roman Pontiff, for the time being specially deputed to the office; especially all and singular the decrees which have already emanated from, or shall hereafter emanate from the "Sacra Congregatio Cereemonialis," the preservation of the sublime honour and dignity of the Cardinalate, and particularly the motoproprio of the same Pope Innocent X, confirmatory of the decree made by the same "Holy Congregation of Rites," respecting the equality to be maintained among the Cardinals of the Holy Roman Church; in the bestowing upon any of them titles and appellations of honour; and the expunging from the family ensigns, seals and arms of the same Cardinals, of crowns and other secular symbols; under the date of Rome, in the year of our Lord's incarnation, 1644, the 14th of the calends of January, and the 5th of his Pontificate, according to the tenor of it with which I am fully acquainted; and that to the very letter I will attend to them: and that I will not do anything that may in any way or in any respect oppose itself to, or diminish the honour and dignity of the same Cardinalate; and that I will pay the "jura annuli Cardinalitii," which were granted by the same Gregory XVI to the Congregation for the Propagation of the Faith, and applied (or made over) to the same Congregation, according to the form and tenor of such like grants and applications; and that I will not seek absolution from any of the foregoing Articles, but reject it if it should be offered me (or, and in no way, accept it when offered). So help me God and these most holy Gospels.

No. 22.

The Hon. R. Abercromby to Viscount Palmerston.—(Received February 10.)

My Lord,

Turin, February 3, 1851.

WITH reference to that portion of your Lordship's despatch which relates to the forms and customs followed in the States of His Sardinian Majesty on the nomination of ecclesiastics to episcopal sees, and to the course adopted by the Government of His Sardinian Majesty towards the Court of Rome on such occasions, I have now the honour to report as follows, adding that the information I here give is derived from the most authentic official sources.

The earliest document that refers to the nomination to bishoprics in the States of Savoy is that of Pope Nicholas V, dated 10th January, 1451, by which that Pontiff, wishing to relieve the Duke of Savoy (Louis II, Duke of Savoy) from any suspicion that internal evil consequences or disturbances should arise from the nominations which he might make to dignities of the Church and of monasteries within the States of the Duke, promises him that if the Duke and his dominions remain faithful to the Roman See, "*neminem præficiemus seu illis,*" (archbishoprics, bishoprics, abbatial dignities) "*de quorum cumque personis non providebimus nisi habitis prius per nos intentione et consensu ipsius Ducis, de personis idoneis ad hujusmodi regiminis seu dignitatis promovendis, vel de quorum personis tales provisiones fuerint faciendæ.*"

This brief was confirmed by Leo X by another brief of 6th June, 1515, and it is to be observed that this latter document not only refers textually to the above cited expressions of Nicholas V, but also to other letters from other

Popes, such as those of Sixtus IV relative to the prohibition of the nomination of strangers to any benefice, which provisions were confirmed by Popes Innocent VIII and Julius II.

Some contestations having, however, been raised by subsequent Popes against these concessions, Pope Clement VIII, in a brief of the 19th June, 1595, renewed in explicit terms the confirmation of the preceding briefs in favour of Duke Charles Emanuel.

Some difficulties having again been made a century later to the extension of these privileges to the dominions of the House of Savoy, south of the Alps, all doubt was removed by a brief of Innocent XII, of July 31, 1700, in favour of the Duke Victor Amédée (first King of Sardinia). The same difficulties having arisen with respect to newly-annexed provinces, Pope Benedict XIII resolved them in favour of the King Victor Amédée and his successors, in the most ample manner, excepting only the benefices of Casale, Acqui, and Alessandria, where the practices of the Duchy of Milan were to be maintained. This reservation, however, was never complied with, and was removed by a brief of Pius VI, of 11th June, 1791. Thus the right of the Crown to nominate to all the bishoprics of the State was acknowledged and augmented till the period of the annexation of the States of Sardinia to France, when they became subject to the Concordat of 1801, the IVth Article of which expressly maintains to the Crown the nomination of bishops.

On the restoration of the House of Saxony in 1814, the Concordat ceased to be in vigour in this country, and the ancient briefs and their provisions were again in force; and no further difficulty or dispute on these subjects has arisen between the Courts of Turin and Rome.

Pope Pius VII, by a brief of 14th July, 1819, conferred upon the King the same right of nomination of bishops in the Duchy of Genoa.

The above-mentioned acts establish clearly the right of the Crown to nominate bishops to sees within the States of Sardinia, which right is in force at the present moment.

As regards the forms to be observed with respect to the nomination of bishops, and the steps to be taken in consequence towards the Court of Rome, it was formerly the custom on the occasion of a vacancy, for the Prince to inform the Pope by letter of his intentions. This letter was presented by the Prince's Minister to His Holiness, who received it; a memorial was then given in to the Dataria for the expedition of the bulls, and the nomination became complete on the verbal assent of the Pope to the wishes of the Prince. Formerly no mention was made in the bulls of institution to consistorial benefices of the right of nomination of the Prince; but such has been the case in times nearer to our own, as is proved by the bulls for the Bishops of Biella, Susa, and Pinerol, created in the last century, and by the bull of institution for the present Bishop of Cuneo in 1843.

By the Regulations of 1770 for the Secretaries of State, it was provided by s. 6, cap. 1, that the nominations made by the King, of archbishops, bishops, abbots, and other consistorial dignitaries, and which have to be sent to Rome, were to be expedited by the Secretary of State for Foreign Affairs; and by s. 6, cap. 2, the patents of collation (*collazione*) to any ecclesiastical employment or office in favour of individuals, are to be expedited by the Secretary of State for the Home Department.

By the 18th Article of the Constitution the exercise of the rights belonging to the civil power in matters of benefices is preserved to the Crown, and thus also the right of nomination, which constitutes the most essential part of it.

On the creation in 1831 of the Ministry for Ecclesiastical Affairs, the above-mentioned attributes of the Home Department were transferred to the Ministry for Ecclesiastical Affairs.

By Royal decree of 21st December last, regulating the attributions of the various Ministries, it was established by s. 7 of Article 2, that the Council of Ministers were to deliberate on the propositions for archiepiscopal and episcopal sees; by s. 1 of Article 6, that the nomination to bishoprics, abbeys and benefices under Royal patronage belonged to the Ministry for Ecclesiastical Affairs, Grace and Justice; and that according to s. 3 of Article 3, the Ministry for Foreign Affairs was charged with the commencement and prosecution of all negotiations with the Court of Rome concerning proposed appointments to episcopal sees and to ecclesiastical benefices.

As to the forms used and customs followed with regard to the Royal letter addressed to the Pope announcing the name and rank of the ecclesiastic chosen and named a bishop, it is transmitted to the King's Representative at Rome, to be by him delivered to the Cardinal named Protector of the Royal States, which office for some time past had not been exercised, and which is generally confided to a Cardinal subject of the King, is now filled by the King's Representative, who, after asking for an audience for this particular purpose, delivers his Sovereign's letter into the Pope's hands. These letters contained formerly the following expressions: "*in virtù*," or "*in forza del diritto che ci compete nominiamo*, &c.; but latterly the simpler phraseology of "*abbiamo nominato, come nominiamo il N.N. alla vacante Mitra*, &c., concluding with the request that the Holy See will order the expedition of the necessary Pontifical provisions (*providenze*).

It only remains for me, in order to complete the information required by your Lordship, to observe that an oath of allegiance to the Sovereign of the country is required to be taken by all archbishops, bishops, and prelates, after their consecration, but before they can enter into possession of their sees.

This act establishes the supremacy of the civil authority, defines the position of the bishop as regards the Sovereign and the State; and notwithstanding the high ecclesiastical dignity of the bishop, in which respect he is dependent on Rome, it nevertheless preserves his civil subjection to the State.

Although Pope Benedict XIV does not mention this oath in distinct terms, he nevertheless alludes to it, when in the 4th Article of the Instruction of 1742, he enjoins all bishops to make an act of homage to the person of the Sovereign, and to implore his Royal protection before proceeding to take possession of their sees.

By the Regulations of 1770 this oath of allegiance was taken before the King by the archbishops, bishops, and prelates of the Sardinian States, before entering on their episcopal functions; and this oath was received by the Minister for the Home Department; now it is received by the Minister for Ecclesiastical Affairs, Grace, and Justice, as Notary of the Crown in such matters.

Such are the forms and customs which have existed and do exist in this country, with reference to the most delicate question of the nomination of bishops.

The constant and successful opposition offered by the Sovereigns of the House of Savoy to the pretensions put forward on this subject by the Court of Rome, have not been the result of disaffection towards the Holy See, but of a principle of Government not to permit the imposition of high ecclesiastical dignitaries within the State, exercising an immense influence over the consciences of the population, enjoying large dotations, and with emoluments superior to those of the first dignitaries of the State, without partaking *coll' intenzione e col consenso*, as Pope Nicholas V expressed it, in their institution, and without receiving from such dignitaries the oath of allegiance previous to their taking possession of the sees committed to their care.

I trust that the above information will be found to satisfy the inquiries which your Lordship has desired me to make with reference to the points referred to in your despatch.

I have, &c.
(Signed) RA. ABERCROMBY.

SAXONY.

No. 23.

The Hon. F. R. Forbes to Viscount Palmerston.—(Received December 24.)

(Extract.)

Dresden, December 19, 1850.

ALTHOUGH I am not yet in possession of the different details respecting the Catholic Church in Saxony, which your Lordship has instructed me in your despatch of the 12th ultimo (received on the 16th), to procure and transmit, there are one or two on which I can myself give the answer.

There is properly no Catholic bishop in Saxony. His Majesty's confessor, named Dittrich, is Bishop *in partibus* and Vicar Apostolic in this kingdom; neither of these dignities give him a right to a seat in the Diet, where the Catholic interests are represented in the Upper Chamber by the head of the Catholic Chapter of St. Peter in Bautzen, who is chosen by their own votes. In two instances latterly the chapter had chosen the bishop, but not this one.

No Papal bulls or rescripts can be published in Saxony without the previous knowledge and sanction of the Saxon Government, and the country would not admit for a moment that any Catholic bishop should be named to a diocese in this kingdom.

I hope soon to be able to furnish your Lordship with full and interesting information.

No. 24.

The Hon. F. R. Forbes to Viscount Palmerston.—(Received January 24.)

(Extract.)

Dresden, January 11, 1851.

I HAVE the honour of transmitting to your Lordship a copy and translation of a memoir on the relations existing in this Protestant country between the Catholic Church and the Government.

Your Lordship will see in this memoir that up to the Peace of Posen (on the 16th February, 1807), the Catholics in Saxony were subjected to very severe restrictions, and this not only in religious matters; for until then it appears that there were the greatest difficulties as to their acquiring landed property or holding particular offices. Their churches had also no bells; and when the first (Saxon) King of Poland changed his religion, for the sake of getting that Crown, the whole government of the Protestant Church was made over to the ministers, to whom even now the Catholic Church is still subject. Even the head of that church in this kingdom, the Apostolic Vicar, must, prior to his being confirmed in his office, take the oaths of allegiance and obedience to the laws and constitution. This office

itself only exists since the year 1815. Nothing can be made public here by him, unless accompanied by the Royal *placet* and the Catholics are as much under the Department for Public Instruction and Religion as the Protestants. No new convents or monasteries can be established. The Province of Lusatia, which preserved its particular rights when acquired by Saxony during the thirty years' war (by the Peace of Prague), has kept a monastery and a convent. The decan, or dean, chosen in the former, has a seat in the Upper Chamber, but his election must take place in the presence of a commissary sent by the Government.

There are no Roman Catholic bishops in Saxony, nor would they be allowed. His Majesty's confessor has now, and generally, the title conferred on him by the Pope of Bishop *in partibus*, but out of his churches it gives him neither rank nor privilege in Saxony.

Inclosure in No. 24.

Memoir on the relations existing between the Catholic Church and the Government of Saxony.

Durch die Vorgänge im sechzehnten Jahrhunderte wurde die lutherische Confession in Sachsen eingeführt. Fürsten und Volk wurden evangelisch-protestantisch. Alle die Dispositionen, welche der Passauer Vertrag (1552) und der Augsburger Religionsfriede (1555), sowie in der Folge der Weiphälische Friede, enthielten in Bezug auf die Anerkennung des protestantischen Lehrbegriffs, fanden auf Sachsen ihre volle Anwendung, und es waren daher die Mitglieder der katholischen Kirche in kirchlichen, sowie in manchen bürgerlichen Beziehungen mehrfachen Einschränkungen unterworfen. Auch führte Sachsen auf den Reichstagen das Directorium des sogenannten Corporis evangelicorum oder des staatsrechtlich anerkannten Theils der Reichsrepräsentation.

Als August der Starke, bewogen durch die Erwerbung der polnischen Krone, vorerst für seine Person zu der katholischen Kirche übertrat, sicherte er seinem Lande die unveränderte Bewahrung ihrer kirchlichen Verhältnisse zu (1698. 1699.) in den sogenannten Reversalien, und er übertrug die Verwaltung der Religionsachen einer besonderen Behörde. Diese Einrichtung ist auch bis auf den heutigen Tag geblieben, wie weiter unten wird angegeben werden, wenn auch in der Modalität dieser Behörde Aenderungen mancherlei Art eingetreten sind.

So blieben die Angelegenheiten bis auf die Zeiten des Rheinbundes. Bis zu diesem letzterwähnten Zeitpunkte bewirkten die Beschränkungen, denen die Katholiken unterworfen waren, und ebenso die reichsrechtlichen festen Normen zwischen den verschiedenen Religionsverwandten, daß von einer Collision der Rechte nicht füglich die Rede sein konnte.

Als nun am 16ten Februar 1807 der Friede zu Posen geschlossen ward, so erfolgte im 5ten Artikel dieses Friedens die Gleichstellung der katholischen Glaubensgenossen mit den Protestanten. Dies zeigte sich in bürgerlichen Verhältnissen, z. B. bei Erwerbung von Grundstücken und Bekleidung von öffentlichen Aemtern, aber auch im Kirchlichen, namentlich durch den öffentlichen Cultus, denn die Katholiken erhielten z. B. das Recht: Glocken zu läuten.

In der Verwaltung des Kirchenregiments änderte sich nichts dem Principe nach, eine oberste Staatsbehörde blieb mit der Verwaltung des protestantischen Kirchenregiments betraut, denn die Gleichstellung der Katholiken mit den Protestanten konnte darauf keinen Einfluß üben, weil diese Verwaltung durch das katholische Bekenntniß des Hofes motivirt worden war.

Seit dem Jahre 1815, also nach Beendigung des Krieges, complicirten sich jedoch die Verhältnisse der beiden Confessionen hin und wieder, und man hatte mehrfache Gelegenheit, sich an die Unterschiede zu erinnern, welche schon das allgemeine Staatsrecht hinsichtlich der Kirche kennt. Namentlich kamen die Grundzüge über das Hoheitsrecht des weltlichen Staats der Kirche gegenüber in den Bereich der Betrachtung.

Die Vorschriften und Einrichtungen, welche seit dieser Zeit besonders in vorliegender Beziehung wichtig sind, sind folgende:

- 1) Einrichtung eines apostolischen Vicariats.
- 2) Der 16te Artikel der Bundes-Akte vom Jahre 1815, welcher die Gleichstellung der Glaubensgenossen wiederholt auspricht.
- 3) Das Mandat (Verleih), die Ausübung der katholischen geistlichen Gerichtsbarkeit betreffend, vom 19ten Februar 1827.
- 4) Mandat, den Uebetritt von einer Confession zur andern betreffend, vom 20ten Februar 1827.
- 5) Die Verfassungs-Urkunde vom 4. September 1831.

Der Inhalt aller dieser Vorschriften läßt sich in Bezug auf den vorliegenden Zweck auf folgende Sätze zurückführen:

- 1) Der König übt die Staatsgewalt über die Kirchen und das Schutrecht über dieselben aus, und es geschieht dies durch das Ministerium des Cultus und die diesem untergeordneten Behörden. Alle geistlichen Behörden aller Confessionen sind dem Ministerio des Cultus unterworfen.
- 2) Die oberste geistliche Behörde für die Katholiken ist das apostolische Vicariat, der Vorstand dieser Behörde ist der apostolische Vicarius, den der Papst delegirt.
- 3) Dieser apostolische Vicar hat in die Hände des Königs, nachdem er das päpstliche Schreiben vorgelegt, den Unterthanen- und Diensteid zu leisten und wird dann bestätigt.
- 4) Will der Papst irgend eine Bekanntmachung erlassen, oder will dies der apostolische Vicar, so ist zu solcher Bekanntmachung durch den Druck, oder Aufschlag, oder sonstiger Publication, das landesherrliche Placet nöthig, dieses Recht fließt aus dem Souveränitätsrechte des Staats, welches von dem Könige und seinen Behörden, abgesehen von der katholischen Confession des Königs, geübt wird.

- 5) Ueberhaupt steht der Staatsbehörde die Entscheidung zu, wenn katholischer Seits etwas geschehen sollte, was den Rechten des Landes oder des Landesherren zum Schaden und Nachtheil gereichen könnte.
- 6) Der Uebertritt von einer Confession zur andern ist an gewisse Bedingungen und Formen geknüpft, ebenso die Wahl der Confession wegen Erziehung der Kinder aus gemischten Ehen.
- 7) Neue Klöster dürfen nicht errichtet werden, ebenso wenig dürfen Jesuiten oder irgend ein anderer geistlicher Orden in Sachsen aufgenommen werden.
- 8) Katholische Bischöfe und Bischöfe existiren im Königreich Sachsen nicht, und wenn der Papst dem Vicarius-Apostolicus die Würde eines Bischofs beilegt, so ist dieser nur ein sogenannter episcopus in partibus infidelium.
- 9) Die katholischen Glaubensgenossen haben Parochien und Pfarreien, und die Behörden, welche für sie im Lande bestehen, sind das katholische Consistorium und das erwähnte Vicariat.
- 10) Ein Concordat mit dem päpstlichen Stuhle existirt in Sachsen nicht, und es darf, wie gesagt, von Rom aus keine Anordnung für die hiesige katholische Kirche geschehen, ohne daß der Landesherr sein Placet dazu hergibt.
- 11) Die katholische Kirche hat übrigens eine Vertretung auf dem Landtage in der ersten Kammer, es ist ein Mitglied des Domstifts St. Petri zu Budissin, in der Regel der Decan, Mitglied dieser Kammer.
- 12) Jede Beschwerde über Mißbrauch der geistlichen Gewalt gehört vor das Ministerium des Cultus, kann aber auch bis an das Gesamtministerium gebracht werden.
- 13) Alle katholische Geistliche im Königreich Sachsen haben, wie die weltlichen katholischen Staatsbürger, den Unterthanen-eid der Treue und des Gehorsams gegen den König und die Geise des Landes zu leisten.
- 14) Sie stehen in allen persönlichen bürgerlichen Rechtsachen und sonst als Staatsgenossen in allen Rechtsachen unter Gerichtsbarkeit der weltlichen Behörden.

Bemerkungen in Betreff der Oberlausitz.

In der Oberlausitz sind wegen der eigenthümlichen Verhältnisse dieses Landestheils auch einige besondere Normen.

Es ward nemlich die Oberlausitz im dreißigjährigen Kriege durch den Frieden zu Prag erworben.

Es sicherten damals die Churfürsten zu Sachsen namentlich auch den Bestand der geistlichen Stiftungen und die Bewahrung der Rechte der katholischen Kirche zu.

Von den hier einschlagenden Verhältnissen ist folgendes zu erwähnen:

- 1) In Budissin (Bautzen) ist ein Domstift St. Petri, dessen Vorstand Decan heißt.

Bekleidet dieser Vorstand etwa noch ein anderes Amt, so hat er auch möglicher Weise noch einen anderen Titel: z. B. wenn er apostolischer Vicar für Sachsen ist, oder der Papst ihn zum Episcopus in partibus infidelium ernennt.

Ist z. B. ist der Decan in der Oberlausitz, Bischof Dietrich, zugleich apostolischer Vicar.

- 2) Es bestehen in der Oberlausitz zwei Klöster, deren Bestand in dem genannten Prager Frieden garantirt ist. Sie gehören dem Cisterzienser-Orden an und stehen zugleich unter der geistlichen Inspection böhmischer Bischöfe.

- 3) Allein das weltliche Oberaufsichts- und Regierungsberecht der Krone Sachsen erstreckt sich auch auf alle diese Institutionen, theils im Allgemeinen, theils im Besonderen, so, daß z. B. bei der Wahl des Decans oder Vorstandes des Domstifts St. Petri zu Budissin ein Regierungs-Commissar concurrenzt.

- 4) Ebenso gilt für die Oberlausitz Alles, was in Bezug auf das landesherrliche Placet gesagt worden ist.

Fasset man nun das Obige zusammen, so ergeben sich in Bezug auf die vorliegende Frage folgende Resultate:

- 1) Die katholische Kirche ist in Sachsen berechtigt, sie steht der protestantischen hinsichtlich der freien Religionsübung nicht nach.
- 2) Allein das Recht des Staates ist völlig bewahrt und frei, und es steht dem päpstlichen Hofe nicht zu, Einrichtungen zu treffen, welche nicht bloß innere geistliche sind, ohne den Staat zu fragen.
- 3) Der König und seine Behörden haben in diesen und allen Fällen das Placet auszuüben und können solches verweigern.
- 4) Es ist dies völlig dem pflicht- und sachgemäßen Ermessen überlassen und es besteht kein Vertragsverhältnis mit der päpstlichen Curie.
- 5) Die Eigenschaft des Regentenhauses in Beziehung auf die kirchliche Confession ändert in keiner Beziehung hierin etwas.

Geise, welche hier einschlagen:

- 1) Der Poiener Friede von 1807.
- 2) Bundes-Akte von 1815.
- 3) Mandat vom 19ten Februar 1827 (in der Gesefsammlung von 1827, p. 13.)
- 4) Die Verfassungs-Urkunde vom 4. September 1831.

Dies sind die Fundamental-Normen. Mehrere andere, die Ausübung der Jurisdiction, das Ehrecht, den Schulunterricht betreffend u., sind zwar für das Detail wichtig, doch waren sie hier nicht speciell aufzuführen.

(Translation.)

THE occurrences of the fifteenth century were the means of introducing the Lutheran confession into Saxony: Prince and people became converts to the Evangelical Protestant religion. All the dispositions contained in the Treaty of Passau (1552), and in the religious Treaty of

Peace of Augsburg (1555), as well as in the Additional Articles of the Peace of Westphalia, respecting the acknowledgment of the Protestant faith, were applied in their fullest sense to Saxony; and consequently the members of the Catholic Church were subjected to several restrictions in many matters, as well civil as religious. Besides, during the Imperial Diet, Saxony was at the head, and was President, of the so-called "Corporis Evangelicorum," or of the politically-recognized part of the Imperial Representation.

When Augustus the Strong, enticed by the acquisition of the Polish Crown, became a convert to the Catholic religion (at first only for himself personally), he insured to his country, by the so-called "Reservation" (1698 and 1699), the unaltered possession of their religious rights; and he made over to a particular authority the administration of all religious matters. This arrangement remains in full force to the present day, as will be shown further on, although several modifications have taken place as to the authority itself.

This was the state of affairs up to the time of the Confederation of the Rhine. Till this last-mentioned epoch, the limitations imposed on the Catholics, as well as the established regulations sanctioned by Imperial right between the several allied religions rendered a collision of their privileges improbable.

When Peace was concluded at Posen on the 16th February, 1807, its 5th Article established an equal footing for the Catholics as well as the Protestants; and this showed itself principally in civil affairs, as for instance, in acquiring landed property and the holding public offices; also in some religious ones, namely, through the public exercise of their religion,—for this it was that the Catholics obtained the right of ringing bells.

In the administration of the Church, there was no alteration as to the principle; a supreme State authority continued to govern the Protestant Church, which could not be altered by the emancipation of the Catholics, as the whole arrangement had originated in the change of religion of the Court.

Since the year 1815, and termination of the war, the relations between the two confessions experienced sundry complications; and several occasions recalled the distinctions admitted by general State policy with regard to the Churches: to wit—it was necessary to deliberate on the principles of the supreme temporal rights as they regard the Church.

The following are the regulations and arrangements made since that time, and which bear most on the affair in question:—

- 1st. The creation of a Vicar-General.
- 2nd. The 16th Article of the Confederation Act of 1815, which declares the equality of people of different confessions.
- 3rd. The Mandate (*i. e.* Law) of the 19th February, 1819, concerning the exercise of the Catholic ecclesiastical judicial functions.
- 4th. The Mandate of 20th February, 1827, concerning the change from one confession to the other.
- 5th. The Act of the Saxon Constitution of the 4th of September, 1831.

The contents of all these laws and mandates, when applied to the subject of this note, lead to the following deductions:—

1st. The King exercises the State authority and patronage over the Church, but this is done through the Department of Public Instruction, and those authorities subordinate to it: all ecclesiastical authorities of all confessions are subjected to that department.

2nd. The supreme authority here for the Catholics is the Apostolic Vicariat, whose head is the Apostolic Vicar, delegated by the Pope.

3rd. This Apostolic Vicar, on delivering to the King the Papal commission, has to take at the hands of His Majesty the oath as subject or servant, and is then confirmed in his office.

4th. If the Pope or the Apostolic Vicar wish to issue a notification, the *placet* of the Sovereign is required to such notification, whether it be promulgated by printing, publication, or posting up; this right originates

in those of State sovereignty and supremacy exercised by the King, without regard to his being himself a Catholic.

5th. Generally speaking, the sovereign power has the final decision, if on the part of the Catholics anything were to occur which could injure or prejudice the rights of the country or of the Sovereign.

6th. The change from one confession to the other is connected with and liable to certain forms and conditions; which is the case regarding the choice of a confession for the children of mixed marriages.

7th. No new convents can be established; nor can Jesuits or any other religious order be received in Saxony.

8th. In Saxony there exists neither Catholic bishoprics nor bishops; and if the Pope confers the rank of bishop on the Apostolic Vicar, this can only be as Bishop *in partibus infidelium*.

9th. The Catholics have their parishes and benefices in Saxony, and their authorities in the country are the Catholic Consistory and the above-mentioned Vicariat.

10th. In Saxony no Concordat exists with the Papal Throne, and, as mentioned above, Rome can issue no ordinance for the Saxon Catholics, unless the Sovereign grants his *placet* to it.

11th. The Catholic Church is, besides, represented in the First Chamber of the Diet; one of the Chapters of St. Peter in Budissin, according to established usage, the Dean, is a member of that Chamber.

12th. Every complaint as to a misuse of ecclesiastical power is in the competence of the Department of Public Instruction; it can also be brought before the Cabinet.

13th. All the Catholic clergy in this kingdom, as well as all other Catholics in general, are bound, as subjects, to take the oath of allegiance and obedience to the King and the laws of the land.

14th. In all personal civil rights, and also as members of the State in all questions of right, they are subjected to the tribunals of the civil authority.

Some Remarks respecting the Province of Upper Lusatia.

Some different regulations exist in the above province, on account of the particular connexion, position, of this part of the kingdom, namely: Upper Lusatia was acquired by the Peace of Prague, during the thirty years war.

The Electors of Saxony then confirmed the actual existence of the religious institution there, as well as the preservation of the rights of the Catholic Church. The following are the points connected with this which are most worthy of notice:

1st. Budissin (or Bautzen) contains the Chapter of St. Peter, whose principal is called Dean (Decan); but if he hold another dignity he may also change his title, as for instance, when the Pope has named him either Apostolic Vicar, or Bishop *in partibus*. This is now the case, Bishop Dittrich holding the three dignities.

2nd. There are still two convents in Upper Lusatia, whose existence was guaranteed by the so-called Treaty of Prague; they belong to the Cistercian order, and are also under the ecclesiastical inspection of the Bohemian Bishops.

3rd. However, the rights of the Saxon Crown as to the supreme superintendence and government, are also extended over all these institutions, as well in general as in particular matters; as for instance, a Government Commissary assists in the election of the Dean or Principal of the Chapter of St. Peter.

4th. In addition, all that has been stated concerning the sovereign *placet*, has the same force of law in Lusatia.

If, therefore, we sum up the aforesaid, the following are the results which bear upon the questions before us:

1. The Catholic Church is acknowledged in Saxony, and, as regards

the free exercise of her religion, is on an equal footing with the Protestant.

2. But the sovereign rights are fully preserved and free; and the Court of Rome is not permitted, without the sanction of the State, to make regulations, unless such as are purely and privately ecclesiastical.

3. The King and his Executive, in this and all other cases, have to issue the *placet*, and refuse it.

4. This depends entirely upon their judgment of what is required by their duty and by the affair itself; and they are not bound by any Treaty with the Court of Rome.

5. The particular position of the reigning family, as regards their religion, cannot make the slightest alteration in this respect.

The Laws referred to here, are:

1. The Treaty of Posen of 1807.

2. The Act of the Confederation of 1815.

3. The Mandate of the 19th February, 1827 (in the Catholic laws of that year).

4. The Constitution promulgated in September 1831.

These are the fundamental regulations; there are several others, such as the exercise of the jurisdiction, those concerning marriage, school education, &c., which are interesting in detail, but which could not be entered upon here.

No. 25.

The Hon. F. R. Forbes to Viscount Palmerston.—(Received February 10.)

My Lord,

Dresden, February 3, 1851.

I HAVE the honour of transmitting to your Lordship a note (with its translation and sub-inclosures), concerning the position of the Catholic Church in this kingdom, and its relations to the Government. I received it through the Department of Foreign Affairs, in answer to a note requesting information on this subject, which by your Lordship's instructions I addressed some time back to M. de Beust.

It is doubly interesting at this moment, from the fact that Upper Lusatia, which was ceded to Saxony by the Peace of Prague, retains certain privileges, and even a sort of Catholic hierarchy, which has never been admitted into that portion of this kingdom, which is generally designated as the Hereditary Dominions.

I beg leave here to correct one error in my despatch of the 11th of last month. I said there existed a monastery and convent in Lusatia, whilst there are only two convents in that province.

The free exercise of their religion has only existed for the Catholics since February 1807, and their clerical jurisdiction was only partly established and defined as late as the 19th of February, 1827, by a mandate which declares the Apostolic Vicariate as the first Catholic authority in the hereditary part of Saxony, and gave it a tribunal.

On the following day appeared a mandate respecting the change from one religion to the other, which can only be admitted under certain restrictions, and when the person has attained his twenty-first year. Due notice must be given to the clergyman of the confession the person is about to leave, and this clergyman is forbidden to excite contempt for that which is last chosen. There must be witnesses and a previous examination; and any clergyman neglecting these forms, is liable to a fine of fifty thalers. A secret conversion not only entails the forfeiture of certain rights, but in some cases a competent punishment. If a clergyman receives a convert on the condition of outward conformity to the Church he is leaving, the former is liable to punishment.

A conversion in the most extreme cases of illness, is only valid for the person himself, but can have no action on the children; should the convert recover, he must make the legal declarations, but this again cannot affect the children.

All seducing to conversion by promises, threats, or depreciation of the other religion, is punishable by the competent tribunal of the person liable, with fifty thalers; and in cases of repetition, still more severely; but for clergymen, with deprivation of office. From the day of the recantation, the convert loses all rights appertaining to the Church he has quitted, and equally enters on the enjoyment of those belonging to his new faith, but without his conversion having retrospective action in this respect.

The conversion of one or both parents can exercise no influence on children who have passed the fourteenth year; but their education continues in the same religion until they are of age and choose for themselves; with regard to the younger, it depends entirely on an agreement of the parents as to their future confession.

The above extracts will prove to your Lordship how carefully provision was made against undue proselytism; and although neither religion is expressly named in the above mandate, it is clearly directed against the spirit of conversion, which is the essence of the Catholic Church. The whole mandate proves also how strong the expression of Protestant feeling must have been to induce King Frederic-Augustus, who was such a strict Catholic, to sign it.

In Saxony Proper there are only from 11,000 to 12,000 Catholics, who have no defined parishes, whilst all the remainder are established in Lusatia, which by Treaty remained, in fact, a Catholic province, and where there are eleven parishes, with about 21,000 souls.

There are, therefore, in Saxony, two completely separate Catholic dioceses, with two separate ecclesiastical heads, neither of which is under any archbishop, but emanates directly from Rome.

Nothing in the shape of a law has yet been made public, defining the boundaries of the temporal sovereign authority over the Catholic Church, although one was proposed; but the most important point of all is, that the clergy of that religion are almost entirely paid by the State, in Saxony Proper.

The chapter at Bautzen, in Lusatia, cannot elect their superior or dean without the assistance of a royal commissary; they must announce their choice to His Majesty, and the dean must take the oaths of allegiance and supremacy. The two convents are under the authority of the superior of their order in Prague; but he cannot hold a visitation, &c., unless with the previous sanction of the Saxon Government. No novice can take the black veil till she is past twenty-one years of age. The jurisdiction of the Catholic Church authorities exists only for matters of faith and discipline. No bull, dispensation, or any other act whatever of the Catholic Church can be published or posted up in Saxony without the Royal consent, and the clergyman contravening the law, is liable first to "præmunires," later to certain penalties. In some cases publications alluded to above are declared void and of no avail.

In Saxony Proper there are only two Catholic parishes which have independent funds for their support; whilst in Lusatia the contrary is the case, and there is only one paid by the State.

Regarding their share in the public instruction, there is in Leipzig no professor of Catholic theology; but there is a seminary in Prague, where they are sent by the dean at Bautzen. There are also no Catholic elementary schools for Catholics, and the scholars must be prepared in the Protestant ones.

In mixed marriages, the ceremony ought to be performed according to the Church of the bride; but on a written consent from her, may be performed according to the other Church. If they both insist on a double ceremony, that according to the religion of the bride must be first performed, and is considered as the real legal marriage ceremony.

A divorce in mixed marriages can only exist for the Protestant party; but after a year of legal separation, the Protestant may sue for a divorce.

These are the principal points of this note, which is well worthy of your Lordship's attention, for Lusatia is in this respect to Saxony, what Ireland was to England. It is a Catholic province connected with and possessed by a Protestant kingdom; but every possible precaution has been taken to prevent every encroachment of the Catholic clergy, and to keep them under the authority of the Department for Religion and Public Instruction, whose head must be a Protestant.

I have, &c.

(Signed) FRANCIS R. FORBES.

Inclosure 1 in No. 25.

Memorandum on Laws and Regulations respecting Roman Catholic worship in Saxony.

Ueber
die Verhältnisse der katholischen Kirche
im Königreiche Sachsen.

Die Verhältnisse der katholischen Kirche in Sachsen sind verschieden in den alten Erblanden und in der Ober-Lausitz.

Aus den alten Erblanden war durch die Reformation der Kirche im 16ten Jahrhundert der katholische Cultus ganz verdrängt worden. Erst seit dem, im Jahre 1697, erfolgten Rücktritte des Landesfürsten zur katholischen Confession faßte die katholische Kirche von Neuem wieder Fuß. Bis zum Jahre 1806 war sie nur geduldet, obwohl ihr von Seiten des Churhauses manche Unterstützung zufließ, welcher sonst bloß geduldete Religionsgesellschaften sich nicht zu erfreuen haben, und einer von den bei dem Hofe angestellten katholischen Geistlichen von dem Römischen Stuhle den Auftrag erhielt, als apostolischer Vicar die katholisch-geistlichen Interessen zu vertreten.

Durch den 5ten Artikel des Posener Friedens und das Mandat vom 16ten Februar 1807 ward die Ausübung des römisch-katholischen Gottesdienstes der Ausübung des evangelischen Gottesdienstes gleichgestellt, auch den Katholiken der Genuß gleicher bürgerlicher und politischer Rechte zugestanden. Indessen war dadurch das Verhältniß der katholischen Kirche zum Staate und eine geordnete Verfassung derselben noch nicht festgestellt. Dazu wurde erst später ein Landesgesetz, das Mandat, die Ausübung der katholisch-geistlichen Gerichtsbarkeit in den hiesigen Kreisländern und die Grundsätze zu Regulirung der gegenseitigen Verhältnisse der katholischen und evangelischen Glaubensgenossen betr., vom 19ten Februar 1827.

Erlassen, durch welches das apostolische Vicariat für die oberste katholisch-geistliche Behörde in den alten Erblanden erklärt, demselben ein Vicariatsgericht beigegeben, die Beforgung der katholisch-geistlichen Angelegenheiten in niedriger Instanz aber und die Gerichtsbarkeit in selbigen einem, dem Vicariatsgerichte untergeordneten katholisch-geistlichen Consistorio übertragen wurde. Durch dieses Gesetz erhielt die katholische Kirche in diesem Landestheile eine organische Gestalt ohne daß es eines Concordates mit dem römischen Stuhle bedurste. Gleichzeitig erschien ein zweites Gesetz.

Das Mandat, den Uebertritt von einer christlichen Confession zur andern betr., vom 20ten Februar 1827.

Geschlossene katholische Pfarochien konnten sich aber hier nicht bilden, weil die ganzen Erblande in evangelische Pfarrsprengel getheilt sind, in denen der gesammte Grundbesitz zu dem evangelischen Kirchenwesen beitragspflichtig ist. Die im Lande zerstreut wohnenden Katholiken, 1100—1200 an der Zahl, wurden nur von persönlichen Leistungen zu dem evangelischen Cultus befreit, des von der evangelischen Kirche früher ausgeübten Personalzwanges enthoben, und nach gewissen Bezirken den nach und nach entstandenen 11 katholischen Kirchen zugetheilt.

In der Ober-Lausitz, welche durch den Traditionsrecess vom 30ten Mai 1635 an das Churhaus Sachsen kam, hatte sich die evangelische Lehre zwar ebenfalls sehr verbreitet. Es waren aber daselbst ein katholischer Domstift zu Bautzen, dessen Decane nach dem Uebergange des Hochstiftes Meissen zur evangelischen Confession die administratio ecclesiastica in spiritualibus per utramque Lusatiam übertragen wurde—zwei Nonnenklöster und mehrere katholische Pfarreien verblieben. In dem Reccesse wurde den Katholiken nicht nur freie Religionsübung durch die ganze Lausitz gesichert, es hatte und behielt die katholische Kirche in den katholischen Pfarreien geschlossene Bezirke, in welchen sogar andere Confessionsverwandte zu den Lasten des katholischen Cultus beizutragen verpflichtet sind.

Gegenwärtig befinden sich in der zum Königreiche Sachsen noch gehörigen Ober-Lausitz 11 geschlossene katholische Kirchspiele mit gegen 21,000 katholischen Einwohnern.

Das Königreich Sachsen zerfällt demnach in zwei getrennte katholische Kirchensprengel, in denen die bischöflichen Rechte von zwei verschiedenen Kirchenbeamten ausgeübt werden; in den alten Erblanden von einem apostolischen Vicar, in der Ober-Lausitz von dem Decan zu Bautzen.

Beide sind keinem Erzbischofe untergeordnet, sondern stehen in spiritualibus unmittelbar unter dem päpstlichen Stuhle zu Rom.

Der Papst pflegt den apostolischen Vicar und den Decan zu Bautzen mit der Würde eines Bischofs in partibus zu bekleiden.

Jetzt ist das apostolische Vicariat und das Decanat zu Bautzen in einer Person vereinigt.

Seit der Verfassung vom 1sten September 1831, leisten der apostolische Vicar, der Decan zu Bautzen und alle katholische Geistliche den Verfassungseid. Das Ministerium des Cultus und öffentlichen Unterrichts, dessen Vorstand nach § 41 der Verfassungsurkunde evangelischer Confession sein muß, übt das jus circa sacra auch über die katholische Kirche, deren Behörden und Diener aus, unterläßt es aber nicht, in allen wichtigen Fällen die Genehmigung Sr. Majestät des Königs einzuholen.

Um für die Ausübung des weltlichen Hoheitsrechtes über die katholische Kirche festere Normen zu gewinnen, wurde ein Regulativ darüber am Landtage 1837, nach vorgängiger vertraulicher Abrede mit dem apostolischen Vicar, vorgelegt. Die Regierung vereinigte sich auch mit den Ständen über alle wesentliche Punkte bis auf einen. Deshalb

wurde eine nochmalige Vorlegung am Landtage 1845 nothwendig. Da kam es aber nur in einer Kammer zur Berathung, und so ist es noch jetzt nicht publicirt; die Regierung bringt jedoch die allgemeinen Grundsätze desselben seit dem Jahre 1837 in Anwendung.

So viel nun die gemischt kirchlichen Angelegenheiten betrifft, so lassen sich dieselben in folgende Hauptgegenstände theilen.

- I. Die katholisch-geistlichen Behörden, und deren Zusammensetzung;
- II. Die Jurisdiction und amtliche Gewalt derselben;
- III. Die Gesetzgebung und Praxis hinsichtlich des landesherrlichen Placet's und des Verfahrens im Falle der Nichtberücksichtigung desselben; der recursus ab abusu und die Aufhebung der Amtsthätigkeit der geistlichen Gewalt;
- IV. Die Dotation und Besetzung der Kirchenämter und Verhältnisse der niedern Geistlichkeit;
- V. Die Leitung des Unterrichtswesens, und
- VI. Die Ehe und Jurisdiction in Ehesachen.

1. Die katholisch-geistlichen Behörden und deren Zusammensetzung.

a. In den alten Erbländern.

Das apostolische Vicariat besteht aus dem apostolischen Vicar und dessen Kanzlei. Zum apostolischen Vicar ernannt der Papst einen der inländischen katholischen Geistlichen, welcher ihm von dem Könige in Vorschlag gebracht wird; zeither immer den Beichtoater seiner Majestät. Derselbe legt den Unterthanen- und Amtseid vor Sr. Majestät dem Könige in Gegenwart des Cultus-Ministers und eines Ministerialrathes ab und erhält eine Besoldung aus der Staatscasse.

Das Vicariatsgericht besteht aus dem apostolischen Vicar, zwei geistlichen Beisitzern, zwei deputirten Oberappellationsgerichtsräthen (nachdem die in § 14 des Mandats vom 19ten Februar 1827 genannte Landesregierung aufgehört hat) und noch einem weltlichen Vicariatsrath katholischer Confession. Die deputirten Räte des Oberappellationsgerichtes sind dormalen und waren zeither immer Protestanten.

Das katholisch-geistliche Consistorium zu Dresden besteht aus einem geistlichen Präses, zwei geistlichen und zwei weltlichen Beisitzern.

Alle Mitglieder dieser Behörden werden auf den Vorschlag des apostolischen Vicars vom Könige ernannt und resp. bestätigt. Sie werden aus der Staatscasse besoldet, die geistlichen Mitglieder erhalten aber als solche nur geringe Remunerationen, da die Geschäfte unbedeutend sind und sie von den Besoldungen ihrer geistlichen Aemter leben können.

b. In der Ober-Lausitz.

Der Decan zu Bautzen wird von dem Kapitel des Domstiftes gewählt. Zur Vollziehung der Wahl wird ein Königl. Commissar abgeordnet, theils um zu überwachen, daß den gesetzlichen Formen dabei allenthalben genügt werde, theils um dem Kapitel vertrauliche Mittheilung zu machen, welche Personen der Regierung genehm sein würden. Der Königl. Commissar enthält sich aber der persönlichen Theilnahme an der Wahlhandlung, welche in der Sacristei der Domkirche bei verschlossenen Thüren vorgenommen wird und begnügt sich mit der von zwei abgeordneten Canonicis ihm zu machenden Mittheilung und Versicherung, daß die Wahl rite et canonice bewirkt worden sei.

Das Kapitel zeigt hierauf den zum Decan Gewählten Sr. Majestät unmittelbar und dem Ministerio des Cultus an. Der König bestätigt den Gewählten und dieser legt sodann vor dem Cultus-Ministerio persönlich den Homagial- und Vasalleneid ab.

Außer dem Decan besteht das Domstiftliche Consistorium aus den drei ältesten Capitularen und einem juristisch befähigten Secretair. Bei der Wahl der Capitularen, im Ganzen 10 an der Zahl, die dem Capitel zusteht, finden keinerlei Beschränkungen statt.

Die Klöster Marienstern und Marienthal stehen nicht unter dem Domstifte, sondern unter der geistlichen Aufsicht des General-Vicars ihres Ordens (des Cistercienserordens) im Königreiche Böhmen, welches dormalen der Abt zu Pösteitz ist. Doch wird dieser, bevor er die Königl. Sächsische Bestätigung erhalten hat, zu Visitationen und anderen Amtsverrichtungen in den Klöstern nicht zugelassen. Eben so wird auch zu der Wahl einer neuen Abtissin jedesmal diese Bestätigung nachgesucht, und wenn kein Bedenken vorhanden ist, ertheilt. Auch hat die Königl. Sächsische Regierung das weltliche Hoheitsrecht über diese frommen Anstalten jederzeit ausgeübt, und erst neuerlich, in den Jahren 1832 und 1833 angeordnet, daß keine Novize vor vollendetem 21sten Lebensjahre zu Ablegung der Klostergelübde zugelassen werden darf, welche Anordnung gegenwärtig befolgt wird. In wie fern Klostergeistliche eine Seelensorge über Personen ausüben wollen, die dem Kloster nicht angehören, müssen dieselben allen Bedingungen, die für die Weltgeistlichen vorgeschrieben sind, genügen und dem Decan zu Bautzen sich unterordnen. So stehen auch die von den Klöstern unterhaltenen Mädchenschulen unter der Aufsicht des Decans.

II. Die Jurisdiction und amtliche Gewalt der katholisch-geistlichen Behörden.

a. In den alten Erblanden. Das Mandat vom 19ten Februar 1827 § 11 unterscheidet zwischen rein geistlichen und gemischten Sachen und rechnet § 32 zu ersteren.

1. alle Glaubens- und Gewissenssachen, welche katholische Glaubensgenossen angehen,
2. alle religiöse Handlungen, welche katholische Glaubensgenossen angehen, und
3. alle die katholische Kirchendisziplin und den katholischen Religionsunterricht betreffende Sachen.

In Hinsicht beider Gegenstände steht dem katholisch-geistlichen Consistorio die Gerichtsbarkeit zu, jedoch sondern sich dieselben wieder in höchste Instanz, indem in rein geistlichen Sachen das Vicariatsgericht, in gemischten aber die höhern Staatsbehörden, auf eingewendete Appellationen oder Recurse, zu entscheiden haben. Eine Reuterungsinstanz findet bei dem katholischen Consistorio gegenwärtig nicht mehr statt.

Da nach der dormaligen Organisation der Staatsbehörden die Justizcollegien über streitige Administrativsachen nicht mehr zu entscheiden haben, sondern diese Entscheidung, unter gewissen angemessenen Bestimmungen, in höchste Instanz den Ministerien zusteht, so hat das katholische Consistorium in dergleichen Sachen, in so fern sie nicht in die Classe der rein geistlichen zu rechnen sind, auf eingewendeten Recurs an das Ministerium des Cultus und öffentlichen Unterrichts seinen Bericht zu erstatten.

b. In der Ober-Lausitz.

Die Competenz des domstiftlichen Consistorii zu Bautzen erstreckt sich in erster Instanz ebenfalls nicht bloß auf rein geistliche, sondern auch auf gemischte Angelegenheiten. In rein geistlichen Angelegenheiten bildet der Decan, als Ordinarius, in gemischten die weltliche Provinzialbehörde die höhere Instanz. Letztere kommen in höchste Instanz an das Ministerium des Cultus.

III. Das landesherrliche Placet, folgen im Falle der Nichtberücksichtigung desselben, recursus ab abusu, und Aufhebung der Amtsthätigkeit der geistlichen Gewalt.

Ueber das landesherrliche Placet ist im Mandate vom 19ten Februar 1827 § 3 Folgendes vorgeschrieben:

Die Bekanntmachung allgemeiner, entweder vom Römischen Stuhle ausgehender, oder sonst vom Vicariate für nothig zu befindender Anordnungen durch den Druck oder öffentlichen Anschlag soll ohne Unser landesherrliches Vorwissen und nach Befinden beigelegtes Placet, nicht geschehen.

Der Entwurf zu einem Regulative über die Ausübung des weltlichen Hoheitsrechtes beabsichtigt in § 3—6 eine wesentliche Erweiterung dieser Bestimmung.

Der Fall, daß eine allgemeine Anordnung des apostolischen Vicars ohne landesherrliches Placet erlassen, oder ein päpstlicher Erlaß ohne solches publicirt oder in Anwendung gebracht worden wäre, ist seit Publication des Mandats vom 19ten Februar 1827 nicht vorgekommen. Geschehe es aber, so würde der apostolische Vicar vortificirt und übrigen, nach Beschaffenheit der Sache, entweder das Placet nachträglich ertheilt, oder bekannt gemacht werden, daß der eigenmächtig erlassenen Verfügung nicht nachzufolgen sei.

Recurse wegen Mißbrauch der geistlichen Gewalt sind, bald unter diesem Namen, bald nur als einfache Beschwerden, öfterer beim Staatsministerium des Cultus angebracht, und, nach Beschaffenheit der Sache, bald für, bald wider die geistliche Behörde entschieden worden.

In allen dergleichen Fällen läßt nach dermaliger Verfassung das Ministerium seine Erlasse dem apostolischen Vicar nicht, wie § 3, des mehrerwähnten Mandates bestimmt, durch Communicat, sondern in Form einer Verordnung zugehen.

Aufhebung der Amtsthätigkeit der geistlichen Gewalt zu verfügen, oder auch nur anzudeuten, ist bis jetzt keine Veranlassung gewesen.

IV. Dotation und Besetzung der Kirchenämter und Verhältnisse der niedern Geistlichkeit.

In den alten Erblanden befinden sich nur zwei katholische Pfarreien, welche durch eine selbstständige Dotation bestehen. Die übrigen katholischen Kirchenämter werden aus Staatseassen besollet. Hinsichtlich der Errichtung neuer Kirchenämter wird der Bestimmung § 15 und 16 des Regulativs nachgegangen, wornach hierzu die königliche Genehmigung erforderlich und diese wiederum nach dem Bedürfnis und den dazu vorhandenen Mitteln zu bemessen ist.

In der Ober-Lausitz sind die katholischen Kirchenämter vollständig und ausreichend dotirt, so daß nur eines derselben einen Zuschuß aus der Staatseasse erhält.

Die Wiederbesetzung der geistlichen Ämter erfolgt in der Lausitz bei einigen durch das Domstift, bei andern durch die Klöster oder durch einen Privatcollator. In den alten Erblanden hat das apostolische Vicariat nur eine Pfarrstelle zu besetzen. Die Collatur der Uebrigen steht dem Landesherrn zu, der jedoch dabei nach den Vorschlägen des Vicariates verfährt, die von letzterem bei dem Ministerio des Cultus eingereicht und durch dieses Sr. Majestät mit Gutachten vorgelegt werden.

Nach dem Mandat vom 19 Februar 1827 hatten die katholischen Geistlichen in den alten Erblanden ihren persönlichen Gerichtsstand vor dem katholisch geistlichen Consistorio; durch das Gesetz über privilegierte Gerichtsstände vom 28ten Januar 1835 ist diese Gerichtsbarkeit, mit Ausnahme der Amts- und Disciplinarsachen auf die königl. Justizämter übertragen worden.

In der Ober-Lausitz haben die katholischen Geistlichen ihren Gerichtsstand bei dem Domstifte und bei den Klostergerichten in so weit behalten, als diese Behörden vom Justiz-Ministerio hinsichtlich gedachter Geistlichen mit besonderem Auftrage versehen worden sind.

V. Leitung des Klosterrechtswesens.

Bei der Landesuniversität zu Leipzig besteht keine katholisch-theologische Facultät. Die jungen Leute, welche sich der katholischen Theologie widmen wollen, besuchen daher die Universität zu Prag, woselbst ein für sächsische Staatsangehörige gestiftetes Seminar sich befindet, in welches die Zöglinge durch den Decan zu Baugen aufgenommen werden.

Eben so wenig befindet sich in Sachsen ein katholisches Gymnasium. Die Katholiken, welche die Rechte, die Arzneiwissenschaft oder philosophische Wissenschaften studiren wollen, besuchen zur Vorbereitung auf die Universität die protestantischen Gymnasien.

Die Aufsicht über das katholische Volksschulwesen steht in den alten Erblanden dem katholisch-geistlichen Consistorio zu Dresden, in der Ober-Lausitz dem Domstiftlichen Consistorio zu. Die Kreisdirectionen üben aber eine Mitaufsicht aus, veranlassen, daß sie die katholischen Schulen zu revidiren und wegen Erlebigung wahrgenommener Mängel, soweit sie nicht in das Dogma eingreifen, entweder das Nöthige an das vorgesezte Consistorium gelangen zu lassen, oder Anzeige an das Ministerium des Cultus und öffentlichen Unterrichts zu erstatten haben.

Die katholischen Volksschullehrer werden hauptsächlich auf den protestantischen Schullehrerseminarien gebildet, es steht aber gegenwärtig die Einrichtung eines katholischen Schullehrerseminars in Aussicht, da hierzu eine ansehnliche Stiftung erlangt worden ist.

VI. Ehe, Moralität der Trauung, und Jurisdiction in Ehesachen.

Ueber die gemischten Ehen und die Erziehung der Kinder aus solchen ist ein besonderes Gesetz vom 1ten November 1836 erlassen worden, auf welches hier verwiesen werden kann. Insbesondere wird der Fall, wenn ein katholischer Geistlicher die Einsegnung verweigert, weil die Kinder nicht in der katholischen Confession erzogen werden sollen, von § 4 dieses Gesetzes getroffen.

Daß von der hiesländischen katholischen Geistlichkeit zwischen wirklicher Einsegnung und bloßer *assistentia passiva* ein practischer Unterschied, wie ihn das Breve Papst Pius VIII von J. 1830 aufstellt gemacht worden wäre, ist nicht zu bemerken gewesen.

Die Gerichtsbarkeit in Ehesachen anlangend, so steht diese

a. in den alten Erblanden

Wenn beide Theile katholisch sind, dem katholisch-geistlichen Consistorio zu. In gemischten Ehen aber sind Scheidungsklagen bei dem betreffenden Appellationsgerichte anzubringen, welches, je nachdem der Beklagte evangelisch oder katholisch ist, nach den Grundsätzen des protestantischen oder katholischen Eherechtes zu entscheiden hat. Dabei sollen zwei Geistliche von jeder Confession zugezogen werden. Es haben jedoch die katholischen Geistlichen mit Berufung auf *Cessio* 24 can. 12 des Tridentiner Concils, welches ihnen verbietet, die Gerichtsbarkeit eines weltlichen Richters in Ehesachen anzuerkennen, ihre Mitwirkung abgelehnt, und es wurde Bedenken getragen, sie durch Zwangsmittel dazu anhalten zu lassen, da Vorsorge getroffen ist, daß die Appellationsgerichte der Verweigerung der Theilnahme der Geistlichen ungeachtet, in diesen Sachen gütliche Entscheidungen geben können.

b. in der Ober-Lausitz werden noch zur Zeit und bis auf weitere Anordnung Eheschreitigkeiten unter Gatten verschiedener Confession, wenn der Beklagte katholisch ist, vor dem domstiftlichen Consistorio, wenn er aber Protestant ist, vor dem Appellationsgerichte zu Baugen verhandelt.

So viel aber die Wirkung der Ehescheidungen in gemischten Ehen betrifft, so soll eine nach canonischem Rechte erkannte beständige Scheidung von Tisch und Bette für den klagenden evangelischen Theil wie eine Scheidung vom Bande und eine erkannte Scheidung der letzteren Art für den klagenden katholischen Theil nur wie beständige Scheidung von Tisch und Bette gelten. Auch soll, wenn nach Grundsätzen der katholischen Kirche nur zeitliche Scheidung von Tisch und Bette erkannt wird, oder gänzliche Abweisung erfolgt, wo nach den Grundsätzen des evangelischen Kirchenrechtes Scheidung vom Bande erfolgen könnte, nach Ablauf eines Jahres von der Rechtskraft des Erkenntnisses an gerechnet, auf Antrag des klagenden evangelischen Theiles, Scheidung vom Bande ausgesprochen werden.

Gesetz über die priv. Gerichtsstände vom 28. Januar 1835.

(Translation.)

THERE is a difference as to the relations of the Catholic Church in Saxony in the hereditary dominions, and in Upper Lusatia.

The reformation of the Church in the sixteenth century had completely supplanted the Catholic worship; and it was after the return of the Sovereign to that faith that it first began to gain a new footing. Up to the year 1697 it was however only tolerated, although receiving from the Electoral House much assistance, which other religious communities, as being only tolerated, did not enjoy; and one of the Catholic clergy placed about the Court received instructions from the Pope, as Apostolic Vicar, to represent the ecclesiastical interests of that Church.

By Article V of the Treaty of Posen, and the order (mandate) of the 16th February, 1807, the exercise of the Roman Catholic worship was placed on a par with the Evangelical, and the Catholics obtained an equality in the enjoyment of civil and political rights. However, this did not yet establish the relation of the Catholic Church to the State, nor its fixed government. For this purpose a law was promulgated on the 19th of February, 1827, concerning the above-mentioned mandate—the exercise of the Roman Catholic jurisdiction in these hereditary States—and respecting the principles for regulating the mutual relations of those professing the Evangelical and Roman Catholic religions. This law declares that the Apostolic Vicariate is the supreme ecclesiastical Catholic authority in the old hereditary dominions; grants it a vicariate's tribunal; but the management of the Catholic ecclesiastical matters, in the first instance, and its jurisdiction over the same, are committed to a Catholic ecclesiastical tribunal, subordinate to that of the vicariate.

Through this law the Catholic Church in Saxony gained an organic construction, without the necessity of recurring to a Concordat with the See of Rome.

At the same time a second law appeared concerning the change from one Christian confession to another, dated 20th February, 1827. Exclusive Catholic parishes could not, however, be formed here, because the whole of the hereditary dominions [this is used as a distinction between them and the Province of Lusatia] are divided into Evangelical parishes, in which the collective landed proprietors are bound to contribute to the support of the Protestant Church. The scattered Catholics who still inhabit this part of the kingdom (in number between 11,000 and 12,000) were only freed from personal contributions to the Evangelical faith, were exempted from the former Evangelical parish constraints, and, according to certain districts, were divided amongst the eleven Catholic churches, which had arisen by degrees.

In Upper Lusatia, which came to the Electoral House of Saxony by the Treaty of Cession of 30th May, 1635, the Evangelical faith had also made great progress; but there a Catholic chapter existed in Bautzen, the dean (or decanus) of which was charged with the ecclesiastical administration for spiritual matters in both Lusatias, subsequent to the Chapter of Meissen having gone over to the Evangelical Confession. There were also two convents remaining and several Catholic parishes. In the Convention not only the free exercise of their religion was insured to these in the whole of Lusatia, but the Catholic Church kept defined districts in their parishes, where those of another confession were bound to contribute to the burthens of the Catholic rite.

At the present moment, in that part of Lusatia belonging to Saxony, there still exists eleven definite Catholic parishes, with about 21,000 inhabitants of that religion.

The Kingdom of Saxony is therefore divided into two separate Catholic dioceses, where the episcopal rights are exercised by two different Church authorities, viz., in the hereditary dominions, by the Apostolic Vicar; in Upper Lusatia, by the dean at Bautzen. Both of these are not subject to any archiepiscopal authority, but in spiritual matters derive directly from the Papal See in Rome.

The Pope generally confers the dignity of Bishop *in partibus* on the Apostolic Vicar and the Dean in Bautzen; but these are now united in the same person.

Since the Constitution of 1st September, 1831, the Apostolic Vicar, Dean at Bautzen, and all the Catholic clergy, must swear to it. The Department of Religion and Public Instruction, the head of which (according to the paragraph 41 of the same) must be of the Evangelical Confession, exercises the "*jus circa sacra*" with regard to the Catholic Church, its authorities and servants, but never omits to procure the sanction of His Majesty the King in all affairs of consequence.

For the purpose of obtaining more defined regulations as to the exercise of the temporal authority over the Catholic Church, an order concerning it was submitted to the Diet of 1837, after previous confidential communications with the Apostolic Vicar: the Government and States were agreed in all save one point, which obliged them to bring the subject again before the Diet of 1845. It was, however, discussed in only one Chamber, and it is consequently not yet published, but the Government is guided by its general principles in every Act since the year 1837.

As far as concerns the mixed ecclesiastical affairs, the principal points may be divided into the following:

- I. The Catholic ecclesiastical authorities and their composition.
- II. Their jurisdiction and official power.
- III. The legislation and practice concerning the Sovereign's *placet*, and the proceedings in the event of a disregard of the same; the appeal "*ab abusu*," and the suspension of official action of the ecclesiastical authority.
- IV. The dotation of, and appointment to Church offices, and the relations of the lower clergy.
- V. The direction of what belongs to education.
- VI. Marriage and its jurisdiction.

I.—Catholic Ecclesiastical Authorities and their Composition.

a. In the old hereditary dominions, the Apostolic Vicariate consists of the Vicar himself and of the subordinates in his office. The Pope names to this office one of the native Catholic clergy proposed to him by the King; up to this time it has always been His Majesty's Confessor. He takes the oath of investiture and allegiance before the King, in the presence of the Minister of Public Instruction and of a Councillor of this Department, and has a salary from the Exchequer. His tribunal is composed of himself, two assistant clergymen, two members of the Supreme Court of Appeal deputed *ad hoc* (after that the Separate Provincial Administration had been abolished by paragraph 11 of the Mandate of 19th February, 1827), and also a temporal (Catholic) Vicariate's councillor. Those councillors, deputed from the Supreme Tribunal of Appeal, were, and continue always, Protestants.

The Catholic Consistory in Dresden was composed of an Ecclesiastical President (*Præses*), two clerical, and two temporal assistants. All the members of these tribunals are named by the King on the proposition of the Apostolic Vicar, and afterwards confirmed. They are paid by the Exchequer, but the ecclesiastical members receive only a small remuneration, the business being inconsiderable, and their clerical incomes being sufficient for their support.

b. Upper Lusatia.—The Dean at Bautzen is chosen by the chapter, but for rendering the election complete, a Royal Commissary is appointed, partly to watch over the entire observance of the legal forms, partly for the purpose of communicating confidentially to the chapter, what persons would be approved of by the Government, however the Royal Commissary abstains from all personal participation in the election, which takes place with closed doors in the sacristy of the church, and is satisfied with an announcement made to him by two appointed canons, that the election has been made "*rite et canonice*." The chapter then announce directly

to His Majesty and the Department of Public Instruction, on whom their choice has fallen, which the King confirms; and the Dean in person then takes the oaths of Homage and Vassalage before the above Minister.

In addition to the Dean, the chapter consists of the three oldest canons, and of a secretary versed in the law: there are no limitations with regard to the election of the canons, the chapter being composed of ten of these.

The chapter has an authority over the two convents of Marienstern and Marienthal, which are under the inspection of the Vicar-General of their order (the Cistercian) in Bohemia; but he is not admitted to visitations or other official acts in these convents, until he has obtained the Royal Saxon sanction, which is also required for the choice of a new abbess, and is granted, provided there be no impediment. Also the Saxon Government has always exercised the supreme temporal authority over these pious institutions, and issued an order very lately in the years 1832 and 1833, that no novice can be permitted to take the black veil before the completion of her twenty-first year, which order is still in full force. Whenever the conventual clergy wish to exercise the cure of souls (*seelsorge*) over persons who do not belong to the convent, they must submit to all conditions imposed on the secular clergy and be subordinate to the Dean at Bautzen, under whose inspection are also the girls' schools maintained by the convents.

II.—*The Jurisdiction and Official Power of the Catholic Ecclesiastical Authorities.*

a. In the hereditary dominions, the Mandate of the 19th February, 1827, establishes a distinction between purely ecclesiastical matters and those of a mixed nature, and according to paragraph 32, considers as belonging to the first—

1. All matters of faith and conscience belonging to the Catholic faith;
2. All religious transactions which concern those professing that religion; and
3. All that concerns Catholic Church discipline and Catholic religious instruction.

The Catholic Ecclesiastical Consistory has jurisdiction in both these matters, but in the higher courts there is again a distinction, since in purely ecclesiastical matters, the Vicariate's tribunal can decide, whilst in mixed ones on appeal, it remains for the higher State authorities to do so; there no longer exists in the Catholic Consistory an appeal for purification. (*Läuterungs Instanz*.) As according to the actual organization of the State authority, the College of Justice has no longer to decide disputed administrative points, and this decision under certain suitable conditions, belongs as last appeal to the Ministers of State; in all matters which are not of that class, purely ecclesiastical, the Catholic Consistory must, on appeal being made, submit its report to the Department of Religion and Public Instruction.

b. In Upper Lusatia the competence of the Catholic Consistory at Bautzen, extends in the First Instance, not only to purely ecclesiastical matters, but also to mixed ones; in the former there lies an appeal to the Dean as "*Ordinarius*," but in mixed affairs, to the temporal provincial authorities there; the final appeal is to the Department of Public Instruction.

III.—*The Sovereign's "Placet;" the consequences of a disregard of it; the appeal "ab abusu," and the Suspension of the Official Power of the Ecclesiastical Authority.*

Concerning the Sovereign's *placet* the following is ordained in the Mandate of the 19th February, 1827, paragraph 3:

"The promulgation of general ordinances, whether they emanate from

the Court of Rome, or are considered necessary by the Vicariate, either by printing or by public posting up, shall neither take place unknown to the Sovereign, nor according to circumstances, without his appended *placet*.

The project for a set of regulations respecting the exercise of the temporal sovereign right, has in view, according to paragraphs 3 and 6, an essential extension of this resolution. Since the publication of the Mandate of 16th February, 1827, no case has occurred that a general order of the Apostolic Vicariate has been issued without the Sovereign's *placet* nor a Papal act of dispensation been applied. Should it however occur, the Apostolic Vicar would be admonished; and according to the circumstances of the case, either the *placet* would be additionally granted, or a declaration be made that no respect was to be paid to an unauthorized order.

Complaints against the misuse of the ecclesiastical authority, whether under this designation, or as simple complaints, are usually addressed to the Department of Public Instruction, and are decided according to circumstances, sometimes for, sometimes against, the clergy. In all such cases the Department, according to the present Constitution, does not (according to paragraph 3 of the above-mentioned mandate) communicate its determination to the Vicariate, but intimates it in the shape of an order.

No reason has yet occurred for suspending the official authority of the ecclesiastical authority, nor for even threatening to do so.

IV.—Dotation and Nomination to the Clerical Offices, and the Relations of the Lower Clergy.

In the old hereditary dominions there are only two Catholic livings with cure of souls, and which exist through an independent dotation; the other Catholic Church offices are paid out of the Exchequer.

Regarding the establishment of new church offices, the paragraph 15 and 16 of the ordinance is to be followed, which exacts the royal sanction, the granting of which is dependent on the exigency and the disposable means; in Lusatia they are sufficiently and richly endowed, so that one only receives an addition from the Exchequer. The nomination to Catholic office in Lusatia rests, in some instances, with the chapters, in others, with the convents and with private individuals.

The Vicariate can only nominate to one benefice in the hereditary dominions, whilst the rest are in the nomination of the Sovereign, who here also is guided by the proposals of the Vicariate, which are first presented to the Department of Public Instruction, and then submitted with a report to His Majesty.

The Mandate of the 19th February, 1827, allowed the Catholic clergy to appear before the Catholic Consistory as their personal tribunal; but the laws concerning privileged tribunals, of the 28th January, 1835, has transferred this to the regular judicial courts, excepting in official affairs and matters of discipline.

In Lusatia the Catholic clergy have preserved their jurisdiction before the tribunals of the chapter and of the convents, in so far that these authorities have received particular instructions from the Department of Justice concerning them.

V.—Direction of Public Instruction.

There is no Catholic Theological Professorship in the University of Leipzig. Young men who wish to devote themselves to Catholic Theology go to the University of Prague, where there is for Saxon subjects a seminary, the pupils for which are received through the Dean at Bautzen. There is also no Catholic Gymnasium in Saxony, and those of that religion who wish to study mathematics, jurisprudence, medicine, or philosophy, must frequent the Protestant Gymnasias, as preparatory to the university.

In the hereditary dominions the inspection of the Catholic popular schools is in the hands of its Consistory in Dresden, whilst in Lusatia it belongs to that of the chapter in Bautzen. The direction of the circle, however, participates in the inspection, in this much, that it must examine the schools, and on perceptible deficiencies (as long as it does not encroach on the dogmas), either to lay them before the Superior Consistory, or report them to the Department of Public Instruction.

The teachers for the Catholic Popular Schools are mostly educated in the seminaries for Protestant teachers of the same class, but it is intended to form a Catholic seminary, purposely for them, a large fund having been obtained for it.

VI.—Marriage; Forms of the Marriage Ceremony; Jurisdiction in these Affairs.

A particular law was issued on the 1st November, 1836, concerning mixed marriages and their issue, to which (being inclosed) reference may be made, and the fact of a clergyman refusing the benediction, because of the children not being intended to be brought up in the Catholic confession, is provided for by the first paragraph of this law. (This seems to incline to the religion of the bride, which is the contrary to the rule generally followed.) It has never yet been seen here, that a practical distinction (as marked in the brief of Pope Pius VIII, in 1830) has been made by the Catholic clergy of this country, between the actual benediction, and simple passive presence.

The jurisdiction in affairs of marriage is as follows :

A. In the old hereditary dominions, where both parties are Catholics, it belongs to their ecclesiastical Consistory. In mixed marriages, however, actions respecting divorce must be laid before the respective Courts of Appeal, which have to decide, according to Protestant or Catholic principles, dependent upon the religion of the person sued. Two clergymen of each confession must be called in ; but the Catholic clergy appealing to Session 24, Canon 12, of the Council of Trent, which forbids their acknowledgment of a temporal tribunal in affairs of marriage, have hitherto declined their participation, and a hesitation is felt as to employing coercion for this purpose, because measures have been adopted that the tribunals shall give valid decisions in such matters, notwithstanding the refusal of the Catholic clergy to participate.

B. In Lusatia it is established, until further orders, that matrimonial disputes, where there is difference of religion, are submitted to the Capitular Consistory, when the person sued is a Catholic, or in the contrary case, to the Tribunal of Appeal in Bautzen.

Respecting the operation of divorce in mixed marriages, a recognized durable divorce, according to Canon Law, "from table and bed," is valid for the suing Evangelical party, as a divorce from the ties of matrimony ; and for the suing Catholic party, the same is only valid as a durable divorce from table and bed. Moreover, if according to the principles of the Catholic Church, a merely temporary separation from table and bed is recognized, or that a complete rejection ensues, where according to the principles of the Evangelical jurisprudence it may terminate in a dissolution of marriage, at the termination of one year reckoned from the established validity of the decree, a dissolution may be pronounced, at the suit of the suing Evangelical party.—(*Vide* "Law concerning Exceptional Tribunals," of 28th January, 1835.)

Inclosure 2 in No. 25.

Law of February 19, 1827, respecting Mandate of February 16, 1807.

6.) M a n d a t,

die Ausübung der katholisch-geistlichen Gerichtsbarkeit in den hiesigen Kreislanden,
und die Grundsätze zu Regulirung der gegenseitigen Verhältnisse der
katholischen und evangelischen Glaubensgenossen betreffend;

vom 19ten Februar 1827.

WM Friedrich August, von GOTTES Gnaden, König von Sachsen u. u. u.
thun kund und zu wissen:

Nachdem durch Unser Mandat vom 16ten Februar 1807 bekannt gemacht worden, daß hinfür in Unserem gesammten Königreiche Sachsen die Ausübung des römisch-katholischen Gottesdienstes der Ausübung des Gottesdienstes der angsburgischen Confessionsverwandten gänzlich gleichgestellt werde, und die Unterthanen beider Confessionen gleiche bürgerliche und politische Rechte ohne Einschränkung genießen sollen, diese Gleichstellung auch durch den 16ten Artikel der deutschen Bundesacte vom 8ten Juni 1815 in allen Bundeslanden festgesetzt worden ist, so finden Wir für nöthig, über die Ausübung der katholisch-geistlichen Gerichtsbarkeit in den hiesigen Kreislanden, und zu Regulirung der gegenseitigen Verhältnisse der katholischen und evangelischen Glaubensgenossen, folgende, die gegenseitigen Grenzen bestimmende, gesetzliche Vorschrift zu ertheilen:

§. 1. Das apostolische Vicariat allhier ist die oberste geistliche Behörde für die römisch-katholischen Glaubensgenossen in den vier Kreisen, und hat, nebst dem ihm untergeordneten katholischen Consistorium, die geistlichen Angelegenheiten und die geistliche Gerichtsbarkeit in Beziehung auf sie eben so zu verwalten, wie solches von dem evangelischen Kirchenrathe, respective in Subordination von den evangelischen wirklichen Geheimen Räten, und den unter demselben stehenden Consistorien, hinsichtlich der Evangelischen geschieht.

§. 2. Der jedesmalige apostolische Vicar hat, nach vorheriger Vorlegung des die ihm befohlene Delegation enthaltenden päpstlichen Schreibens, den Unterthanen- und Dienst-Eid in Unsere Hände abzuleisten, und dabei zu Beobachtung der Landesgesetze bei der ihm aufgetragenen Verwaltung sich zu verpflichten.

§. 3. Die Bekanntmachung allgemeiner, entweder vom römischen Stuhle ausgehender, oder sonst vom Vicariate für nöthig zu findender Anordnungen durch den Druck oder öffentlichen Anschlag soll ohne Unser landesherrliches Vorwissen, und, nach Befinden, beigefügtes Placet nicht geschehen.

Auch behalten Wir Uns vor, in etwa vorkommenden Fällen, welche auf Unsere landesherrliche Gerechtsame Einfluß haben können, und bei Beschwerden über Mißbrauch der von dem Vicariate auszuübenden geistlichen Gewalt, Selbst in geeigneter Maße zu entscheiden.

Zum Behuf solcher Entscheidungen soll jedesmal über den in Frage befangenen Gegenstand von Unserm Geheimen Rathe mit dem apostolischen Vicar sich zuvor communicando vernommen, und in dessen Folge rätliches Gutachten darüber von Ersterem Uns eröffnet werden.

§. 4. Zur Ausübung der katholisch-geistlichen Gerichtsbarkeit in der untern Instanz wird ein katholisch-geistliches Consistorium niedergesetzt, welches mit drei geistlichen und zwei, zur Verwaltung von Justizstellen nach der desfalligen gesetzlichen Vorschrift qualifizirten, weltlichen Beisitzern besetzt, bei dessen Expedition auch, außer den sonst nöthigen Expedienten, ein zu Actuariatsverrichtungen legitimirter Secretarius angestellt seyn soll.

§. 5. Die als geistliche oder weltliche Mitglieder bei genanntem Collegio anzustellenden Personen hat Uns der apostolische Vicar, zu der zu deren Anstellung, bei nicht vorhandenen Bedenken, vorher zu ertheilenden landesherrlichen Bestätigung, jedesmal in Vorschlag zu bringen.

§. 6. Die sämmtlichen, sowohl geistlichen, als weltlichen Beisitzer dieser Behörde, auch die ihr anzustellenden Subalternen, werden bei ihrer Einführung und Annahme mit dem Subjections- und dem Dienst-Eide belegt, haben auch, hinsichtlich der ihnen zukommenden Geschäftsführung, zu Beobachtung der Landesgesetze sich zu verpflichten.

§. 7. In dem katholisch-geistlichen Consistorio soll der vorsitzende Geistliche den Titel: „P r ä s e s“, die übrigen Beisitzer den Titel: „C o n s i s t o r i a l - M e s s e s s o r e n“ führen, und Ersterer den Rang nach dem Director, Letztere den Rang nach den Assessoren des Consistorii zu Leipzig haben.

Der Gerichtsstand derselben ist, was die geistlichen Beisitzer anlangt, nach den Bestimmungen des gegenwärtigen Mandats, in Ansehung der weltlichen Assessoren aber und der Subalternen des Collegii, nur Dienstfachen ausgenommen, in Hinsicht deren sie sämmtlich unter dem Vicario stehen, nach den in §§. 18. und 19. des Mandats vom 13ten März 1822 enthaltenen allgemeinen Vorschriften, zu beurtheilen.

§. 8. Die an das katholisch-geistliche Consistorium gerichteten Eingaben und andere Schriften mögen außen: „An das Hochwürdigste geistlich-katholische Consistorium im Königreiche Sachsen“ und innen: „Hochwürdigste Herren“ überschrieben werden. An den Vicarius ist „Hochwürdigster Apostolischer Vicarius“ zu schreiben, und auf der Außenseite des Schreibens der Titel: „An das Hochwürdigste Apostolische Vicariat im Königreiche Sachsen“ zu gebrauchen.

§. 9. Alles dasjenige, was von dem Consistorio ausgehet, ist von dem Präses oder vorsitzenden Consistorial-Assessor zu unterschreiben und von dem Secretario zu contrafirmiren.

§. 10. Das Vicariat führt ein eigenes Siegel mit der Umschrift: „Apostolisches Vicariat im Königreiche Sachsen“; und das Consistorium eines mit der Umschrift: „geistliches katholisches Consistorium im Königreiche Sachsen.“

§. 11. In Verfassungssachen und in den bei demselben zu verhandelnden rein geistlichen Sachen, so wie in den von der Cognition der weltlichen Gerichtshöfe zu erimirenden Personal-Rechtsfachen der katholischen Geistlichen, ist es ausschließlich dem apostolischen Vicariate subordinirt.

§. 12. Dem Vicariate steht jedoch, rücksichtlich der Verfassungssachen, das Recht der Entscheidung nur insofern zu, als diese die *innere* Verfassung des Collegii angehen. Angelegenheiten, die auf die äußere Verfassung desselben gegen andere Collegia und Behörden Bezug haben, sind, nach vorhero beim Geheimen Rathe, mit Zuziehung des apostolischen Vicars, über sie angestellten Erwägung, mittelst unterthänigsten Vortrags des Erstern, den der Vicar mit zu unterschreiben hat, zu Unserer eigenen Decision zu stellen.

§. 13. Gegen die Erkenntnisse und Bescheide des Consistorii in denjenigen Rechtsfachen, über welche der Vicarius apostolicus nach §. 11. in letzter Instanz zu entscheiden hat, mag zuerst eine Lenkerung Statt finden. Bei der Entschlieszung darüber und dem dem Consistorio nachzulassenden Verspruche derselben sollen, außer den ordentlichen Mitgliedern des Collegii, noch zwei hierzu zu bestellende außerordentliche Beisitzer, ein geistlicher und ein rechts erfahrener weltlicher, zugezogen werden.

§. 14. Zur Formirung der höchsten Appellationinstanz in diesen Sachen wird ein Vicariats-Gericht niedergesetzt, welches, unter dem Vorstehe des Vicarii apostolici, aus zwei geistlichen Vicariatsrathen und drei weltlichen Rathen, Einem aus der Landesregierung, Einem aus dem Appellationengerichte und einem dazu besonders zu bestellenden weltlichen katholischen Vicariatsrathe, bestehen soll.

§. 15. In diesem Gerichte steht dem Vicario apostolico ein Votum decisivum zu.

§. 16. Von den Vicariatsrathen gilt, was die landesherrliche Bestätigung derselben, auch deren Vereidung und Gerichtsstand betrifft, das Nämliche, was wegen dieser Gegenstände in Ansehung der Consistorialbeisitzer oben (§. 6. und 7.) festgesetzt worden ist. Sie sollen den Rang unmittelbar nach den Ober-Consistorial-Rathen haben.

§. 17. In allen andern, als den §. 11. genannten, bei dem katholischen Consistorio anhängig werdenden Rechtsfachen, hat dasselbe auf eingewandte Appellationen, nach Verschiedenheit der in dem Mandate vom 13ten März 1822, §. 12. u. fg. angegebenen Fälle, respective zur Landesregierung oder zum Appellationengerichte zu berichten und die von daher erfolgenden Entscheidungen zu befolgen.

§. 18. Die mit den höchsten Landescollegien wegen geistlicher und kirchlicher Angelegenheiten nöthigen Communicationen sind, wie bei den Protestanten durch den Kirchenrath, so in katholischen Sachen durch das Vicariat zu pflegen, an welches das katholische Consistorium desfalls zu berichten hat. Mit untergeordneten Collegiis soll das katholisch-geistliche Consistorium in statu communicationis stehen.

§. 19. In den, nach der Anordnung des §. 11. und 12., ausschließlich zur Entscheidung des apostolischen Vicariats gehörenden Sachen sind die weltlichen Unterobrigkeiten sowohl von Seiten des Consistorii, als von dem Vicar selbst, nur per modum requisitionis zur Erzeigung der nöthigen Rechtshülfe zu veranlassen, und es werden Unsere Beamten und die Patrimonial-Gerichts-Obriegkeiten zu gebührender Befolgung dieser Requisitionen hierdurch angewiesen. In Ansehung aller übrigen zur Competenz des katholisch-geistlichen Consistorii gehörigen Sachen haben Wir dem Vicario apostolico und dem ihm untergebenen geistlichen Consistorio das Befugniß beilegt, vorge,

dachten Unterbehörden Verordnungen und Aufträge zu ertheilen, und es sind ihnen daher letztere in dieser Beziehung subordinirt. Auch mag sich von dem Vicariate und dem Consistorio der Kreis- und Amts-Hauptleute zu Auftragsvertheilungen in gleicher Weise, wie den protestantischen geistlichen Oberbehörden gestattet ist, bedient werden.

§. 20. In Fällen, wo die katholisch-geistliche Behörde dem von ihr beauftragten weltlichen Commissario einen geistlichen Consistorialbeisitzer oder Vicariatsrath beigegeben hat, mag die weltliche Behörde das Directorium actorum, der geistliche Mitcommissar aber das Directorium commissionis führen. Wenn aber der geistliche Mitcommissar ein anderer, als ein Consistorialbeisitzer oder Vicariatsrath ist, oder der weltliche Commissar einen höhern Rang hat, als der geistliche, so ist dem weltlichen auch das Directorium commissionis zu überlassen.

§. 21. Vorladungen und Anzeigen erläßt das katholisch-geistliche Consistorium, in Gemäßheit der §. 19. gegebenen Bestimmungen, unmittelbar sowohl an die seiner Gerichtsbarkeit überhaupt unterworfenen geistlichen, als auch an weltliche Personen, welche seine Competenz bloß wegen der zu verhandelnden geistlichen Sachen anzuerkennen haben. Jedoch hat es wegen der Insinuation an mittelbare Unterthanen, wie bei den protestantischen Consistorien geschieht, die Patrimonialgerichte zu requiriren.

§. 22. Dem katholisch-geistlichen Consistorio wird die Betreibung der in der Anlage c. angegebenen Geschäfte übertragen. Es hat, wie die protestantischen, alle Gerechtsame eines öffentlich constituirten Gerichtshofes, z. B. das Recht, bona vacantia einzuziehen, Geldstrafen und andere Gerichtsunzungen, auch Gerichtsporteln, die Letzteren nach einer noch besonders bekannt zu machenden Taxe, zu erheben, u. s. w. Die Erträge dieser Einnahmen sind zu einer bei dem Collegio einzurichtenden Cassé zu berechnen, und, so weit sie zureichen, zu den Kosten der Gerichtsverwaltung und Bestreitung der damit verbundenen sogenannten Gerichtsbeschwerden mit zu verwenden.

§. 23. Dasselbe hat bei seinen Beschlüssen, Verordnungen und Entscheidungen, so wie in Absicht auf die Form des bei ihm Statt findenden Verfahrens, lediglich nach den Vorschriften der Landesgesetze sich zu achten, in soweit nicht entweder in Ehesachen die Dogmen der katholischen Kirche entgegenstehen, oder bei der Bestrafung kirchlicher Verbrechen der katholischen Geistlichen, oder solcher Vergehungen katholischer Glaubensgenossen, welche mit Kirchenstrafe geahndet werden, die Vorschriften des canonischen Rechtes zugleich von ihm in Obacht zu nehmen sind.

§. 24. Die Einholung rechtlicher Erkenntnisse in den Fällen, wo es nicht selbst entscheiden will, ist ihm nur bei inländischen Diöcesen nachgelassen.

§. 25. Nur solche Sachwalter, welche die Admission ad praxin juridicam von der Landesregierung erhalten haben, dürfen bei dem katholisch-geistlichen Consistorio zugelassen werden; und es ist, gleich den evangelischen Consistorien, der Beobachtung des Stempelgesetzes unterworfen.

§. 26. In Ansehung der auf nicht streitige Rechtsangelegenheiten sich beziehenden Gerichtshandlungen wird dem katholisch-geistlichen Consistorio gleiche Berechtigung wie den protestantischen beigelegt, und es ist daher zu Bevormundung kranker, abwesender oder verschwenderischer geistlicher Personen, zu Annahme gerichtlicher Recognitionen von Seiten geistlicher Personen, und zu Regulirung der Verlassenschaften derselben, befugt.

In Absicht auf die Bestellung der Specialvormünder zu einzelnen Rechtsangelegenheiten ist bei demselben nach der Vorschrift der Vormundschaftsordnung Cap. 20. §. 7. sich zu achten.

§. 27. Alle zum katholischen Clerus gehörige Personen, ohne Unterschied der erhaltenen höhern oder niedern Grade der Weihe, haben bei ihrer Anstellung als Geistliche im Lande den Unterthaneneid gegen Uns vor dem katholisch-geistlichen Consistorio zu leisten. Sie sind für ihre Personen alsdann lediglich der Gerichtsbarkeit des katholisch-geistlichen Consistorii und, respective in höherer Instanz, des apostolischen Vicariats unterworfen.

In den gegen sie vorfallenden Criminalsachen hat das katholische Consistorium in allen Fällen, wo nach den Landesgesetzen eine besetzte Gerichtsbank, erfordert wird, ein königliches Justizamt zur Führung der Untersuchung zu requiriren, und einen geistlichen Commissarius dazu zu delegiren.

Auch auswärtige katholische Geistliche sollen bei ihrem Aufenthalte in hiesigen Landen, den allhier angestellten katholischen Geistlichen für ihre Personen zugetheilten privilegierten Gerichtsstand zu genießen haben.

§. 28. Ausnahmen von diesem Grundsatz finden Statt:

1.) In Civilsachen:

a) Bei Real- und Provocations-, auch conneren und überhaupt solchen Sachen, in welchen auch protestantische Geistliche, des ihnen zukommenden *fori privilegiati* ungeachtet, vor dem weltlichen Richter Recht zu nehmen haben. Doch darf der katholische Geistliche nicht unmittelbar von dem Letzteren vorgeladen werden, sondern es ist das katholische Consistorium um die Insinuation der Ladung zu ersuchen.

b) Wenn ein katholischer Geistlicher sich freiwillig der Uebernahme einer Vormundschaft unterziehet, so steht er wegen dieses Amtes unter der vormundschastlichen Behörde, die ihn bestätigt hat.

c) Wenn ein katholischer Geistlicher an einem von dem katholisch-geistlichen Gerichte entfernten Orte verstirbt, so ist die Versiegelung seines Mobiliarnachlasses von der Obrigkeit des Aufenthaltsortes zu besorgen und dem Vicariate davon, wie solches geschehen, zur weitem Anordnung und Besorgung Anzeige zu thun.

2.) In Criminalsachen:

Wenn wider einen katholischen Geistlichen auf Specialinquisition, oder Zuchthausstrafe, oder Detention in einem Zuchthause erkannt und das Erkenntniß, auf gefährte Vertheidigung, nicht gemildert worden ist, so ist das fernere Verfahren gegen ihn den weltlichen Gerichten allein zu überlassen; Wir müßten denn, die erkannte peinliche Strafe in eine nicht peinliche zu verwandeln, Uns bewogen finden.

3.) In Polzeisachen:

Die weltliche Polizeibehörde mag gegen katholische Geistliche durch behindernde Maßregeln einschreiten, auch mit der Arretur verfahren, wenn ein sofortiges Eingreifen der polizeilichen Gewalt gegen sie, wegen der auf dem Verzuge haftenden Gefahr, erforderlich wird; es ist jedoch der Arretirte nachher sofort dem katholisch-geistlichen Consistorio, Behufs weitem Verfahrens gegen ihn, zu überliefern.

§. 29. Katholische Schullehrer und niedere, bei dem katholischen Cultus angestellte Kirchendiener haben nur in Beziehung auf ihre Amtsverrichtungen; Todtengräber, Hospitalverwalter und Hospitalleute nur in Ansehung der die Disciplin und die Verfassung der Institute angehenden Sachen, einen privilegirten persönlichen Gerichtsstand vor dem katholisch-geistlichen Gerichte.

§. 30. Die bei katholischen Geistlichen in Diensten stehenden Personen sind demselben nicht unterworfen.

§. 31. Wenn gegen die in Criminal- oder Polizei-Sachen von dem katholischen Consistorio gegen die seiner Gerichtsbarkeit unterworfenen Personen publicirten Urtheil oder Decisa Vorstellungen einkommen, so soll die nöthige anderweite Entscheidung jedesmal von einem Dicasterio hiesiger Lande eingeholt werden.

§. 32. Alle Glaubens- und Gewissens-Sachen, welche katholische Glaubensgenossen angehen;

alle religiöse Handlungen, die zum katholischen Cultus gehören;

alle die katholische Kirchendisziplin und den katholischen Religionsunterricht betreffende Sachen;

gehören als rein geistliche Sachen ausschließlich zur Competenz des katholisch-geistlichen Consistorii.

§. 33. Die Untersuchung und Bestrafung von Excessen, welche in katholischen Kirchen während der gottesdienstlichen Handlungen vorkommen, sind zwar zur Competenz des katholischen Consistorii zu ziehen; es hat jedoch dieses die Entscheidung darüber in letzter Instanz, ausgenommen, wenn der Excedent ein katholischer Geistlicher seyn sollte, der landesherrlichen Appellationsbehörde anheim zu stellen.

§. 34. Katholische Kirchen- und Schul-Gebäude, katholische Gottesäcker und die zur Zeit der Publication gegenwärtigen Mandates vorhandenen katholischen Hospitäler, mit den etwa dazu gehörigen Grundstücken, sollen der Realgerichtsbarkeit des katholisch-geistlichen Consistorii unbedingt unterworfen seyn. In Ansehung der zu neuen, etwa künftig für Katholiken errichteten milden Stiftungen gehörenden Grundstücke aber ist die Zuständigkeit der Realgerichtsbarkeit von der jedesmaligen besonderen Verleihung abhängig.

§. 35. Auch sind diesem Consistorio alle zu religiösen und milden Zwecken bei den katholischen Gemeinden bestimmte Gegenstände, als: Stiftungen für Kirchen zu Messen, Schulen und Hospitälern, auch Begräbniß- und Armen-Stiftungen für katholische Glaubensgenossen, und die darauf Bezug habenden Angelegenheiten unterworfen.

§. 36. Ein kirchliches Asylrecht findet in hiesigen Landen nicht Statt.

§. 37. In Ehe- und Sponsalien-Sachen tritt die Competenz des katholisch-geistlichen Consistorii ein, wenn der Beklagte katholisch ist.

§. 38. Der sonst geltende Grundsatz, daß die Ehefrau dem Gerichtsstande ihres Ehemannes zu folgen habe, findet hierbei keine Anwendung.

§. 39. Bei Sponsalienklagen, wenn die Verlobten verschiedenen Religionsbe-

kenntnißes sind, soll in der Regel diejenige Parthei, welche von dem in Frage stehenden Ehegelöbniß zurücktreten will, als Beklagte angesehen werden; wenn aber beide Theile zurücktreten wollen, und die Auflösung des Gelöbnißes verlangen, letztere vor den geistlichen Richter der Braut gehören.

§. 40. Wenn in einer vor dem katholisch-geistlichen Gerichte anhängig gewordenen Sponsalien-Klag-Sache die Klägerin den Eheanspruch fallen läßt, so soll der Proceß demohungeachtet bei sothanem Gerichte von ihr im übrigen fortgestellt, und daselbst in gleicher Weise, wie solches den protestantischen Consistorien gestattet worden, über den Alimentations- und Dotations-Punkt rechtsverbindlich entschieden werden können.

§. 41. Bloße Schwängerungs- und Alimentations-Klagen gehören nicht für das geistliche Gericht.

§. 42. In Ansehung der Civil-Incident-Punkte, ober des Gerichtsstandes ex connexitate causarum, steht dem katholisch-geistlichen Consistorio gleiches Befugniß, wie den protestantischen Consistorien zu.

§. 43. Den in der Appellationsinstanz, zur ausschließlichen Cognition des apostolischen Vicariats gehörigen, rein geistlichen Sachen sind die vor dem katholisch-geistlichen Consistorio anhängig gemachten Sponsaliensachen nur dann beizuzählen, wenn ein öffentliches Eheverlöbniß Statt gefunden hat.

§. 44. Zu gültigen Eheversprechungen ist auch, in Ansehung der dem römisch-katholischen Glaubensbekenntniß zugethanen Unterthanen, die Einwilligung der noch lebenden Aeltern, oder respective Großältern, schlechterdings erforderlich, und solches sowohl von den katholischen Pfarrern vor dem Aufgebote und der Trauung, als auch von dem katholisch-geistlichen Consistorio bei den in Sponsaliensachen zu fallenden Erkenntnissen, behörig in Obacht zu nehmen.

§. 45. Ueberhaupt haben die katholischen Pfarrer, in Ansehung des Aufgebots und der Trauung, nach den allgemeinen Bestimmungen der Sächsischen Ehrechte, wie solche in dem den Pfarrern Augsburgerischer Confession unterm 15ten Januar 1808. *) vorgeschriebenen Regulative zusammen gestellt worden sind, ebenfalls sich zu achten, und sie sind desfalls mit angemessener Anweisung durch das apostolische Vicariat besonders versehen worden.

§. 46. Verlobte, von welchen der eine Theil dem evangelischen, der andere dem römisch-katholischen Glaubensbekenntniß zugethan ist, sind (nur den Fall ausgenommen, da Beide von Adel wären, und daher des den Personen vom Adelsstande observanzmäßig zustehenden Privilegii der Befreiung vom Aufgebote protestantischer Seits zu genießen hätten) in den Kirchen beider Confessionen, und zwar in den Kirchspielen, wohin sie eingepfarrt sind, oder respective in deren Bezirke sie sich wesentlich aufhalten, das heißt, sich entweder häuslich niedergelassen, oder ihre Aeltern noch am Leben haben, auch wenn sie sich an einem andern Orte, als wo ihre Aeltern wohnen, häuslich niedergelassen haben, sowohl in jenem, als in diesem zu dreien Malen öffentlich anzubieten.

An Orten, wo sich keine katholische Kirche befindet, muß das Aufgebot der Verlobten auch bei Ehen zwischen Katholiken in den protestantischen Pfarrkirchen, in deren Bezirke sie wohnen, geschehen.

§. 47. Von den Pfarrern, welche das Aufgebot zu veranstalten haben, ist vorher sorgfältig zu untersuchen, ob nicht, nach den Grundsätzen ihrer Kirche, der Vollziehung des Ehegelöbnißes zwischen beiden Verlobten ein rechtliches Hinderniß entgegen stehe; und es darf, bevor solches nicht beseitiget, oder in dispensablen Fällen von dem Theile, auf dessen Seite es sich findet, die Dispensation seiner geistlichen Behörde glaubhaft beigebracht worden, mit dem Aufgebote nicht verfahren werden.

§. 48. Der Pfarrer, von welchem die Trauung solcher Verlobten vollzogen werden soll, hat sie nicht eher zu verrichten, als bis entweder, daß das dreimalige Aufgebot öffentlich geschehen, und kein Einspruch erfolgt sei, von beiden Theilen durch pfarrliche Zeugnisse nachgewiesen worden ist, oder sie (jeder der Verlobten von seiner geistlichen Behörde) die ihnen bewilligte Dispensation davon beigebracht haben. In diesem letztern Falle ist die respective von dem katholischen Theile, nach Vorschrift der canonischen Rechte, durch wirkliche Eidesleistung, von dem evangelischen Theile, nach dem protestantischen Ehrechte, durch Handschlag an Eidesstatt zu ertheilende Versicherung, daß er sich mit einer dritten Person in Eheverbindlichkeit nicht eingelassen habe, abzunehmen. Es soll aber diese Versicherung bei Verlobten verschiedenen Glaubensbekenntnisses von Jedem vor seiner geistlichen Behörde abgelegt werden.

§. 49. Können Ausländer, wegen der Verfassung ihres Vaterlandes, oder sonstiger, schwerlich zu hebender Hindernisse halber, weder Taufzeugnisse erhalten, noch an dem Orte ihrer Geburt aufgeboten werden, oder sonst zu wissen nöthige Umstände nicht beschleunigen, so ist bei der geistlichen Behörde der Confession, zu welcher sie sich bekennen, wegen der Zulassung derselben zur eidlichen Bestärkung ihrer Angaben, anzufragen;

auch hat diese Behörde, ob und wo die desfallsige Eidesleistung geschehen solle, zu bestimmen, und erst nach erfolgter und nachgewiesener Eidesleistung ist mit der Trauung zu verfahren.

§. 50. Die Competenz der Parochie in Ansehung der Trauung wird durch die Confession der Braut bestimmt; jedoch steht den Verlobten verschiedener Confession frei, gegen Entrichtung der gewöhnlichen Gebühren an die Geistlichkeit der Braut, sich von dem Pfarrer des Bräutigams trauen zu lassen.

§. 51. Wenn wider die Trauung zweier Verlobten verschiedener Confession Widerspruch geschieht, oder Appellation eingewendet wird, so ist das Anbringen bei der geistlichen Behörde der Braut einzureichen, von dieser aber der geistlichen Behörde des andern Verlobten davon sofort Nachricht zu geben.

§. 52. Wir tragen Bedenken, durch gesetzliche Bestimmungen über das Religionsbekenntniß, in welchem Kinder von Personen verschiedenen Glaubensbekenntnisses getauft und erzogen werden sollen, den Aeltern oder andern Personen, die für die Erziehung solcher Kinder zu sorgen verpflichtet sind, einen Zwang aufzulegen. Es bleibt also die Entscheidung hierüber lediglich der Uebereinkunft und Anordnung der Aeltern, bei unehelichen Kindern der Mutter allein, die auch nach deren Ableben zu befolgen ist, oder, wenn die Aeltern, ohne eine solche Uebereinkunft oder Anordnung zu treffen, verstorben seyn sollten, Denjenigen überlassen, die überhaupt für die Erziehung dieser Kinder zu sorgen haben.

§. 53. Unter keinem Vorwande ist Personen verschiedener Confession, die sich zu ehelichen gesonnen sind, ein Angelöbniß wegen der künftigen religiösen Erziehung der in ihrer Ehe zu erzeugenden Kinder abzufordern.

§. 54. Unregelmäßigkeiten, welche, vorstehenden Vorschriften zuwider, die Verlobten, oder die sie anbietenden und trauenden Geistlichen, sich zu Schulden bringen, sind ernstlich zu ahnden.

§. 55. Die Taufe der in einer gemischten Ehe erzeugten Kinder steht demjenigen Geistlichen zu, in dessen Confession dieselben, nach der Uebereinkunft der Aeltern, unterrichtet werden sollen.

§. 56. Wird an Orten, wo kein öffentlich angestellter katholischer Geistlicher ist, die Taufe eines in der katholischen Confession künftig zu erziehenden Kindes, auf Verlangen der Aeltern, von dem evangelischen Pfarrer verrichtet, so sind diesem dafür die gewöhnlichen Gebühren zu entrichten.

§. 57. Verrichtet sie dagegen ein benachbarter katholischer Geistlicher, so ist die erfolgte und mit officiellen Zeugnissen zu belegende Handlung dem evangelischen Pfarrer des Ortes, wo die Aeltern ihren Aufenthalt haben, zur Eintragung in das Kirchenbuch des Kirchspiels, gegen die Gebühr, anzuzeigen.

§. 58. Im Betreff des Schulunterrichtes sind an Orten, wo es sowohl katholische, als evangelische Schulen giebt, die Kinder katholischer Aeltern durchaus an jene, die Kinder evangelischer Aeltern aber eben so an diese zu verweisen. Unter keinem Vorwande dürfen an solchen Orten Kinder katholischer Aeltern in die evangelische Schule, und die Kinder evangelischer Aeltern in katholische Schulen aufgenommen werden.

§. 59. Nur in Hinsicht der gelehrten Schulen soll hierin eine Ausnahme Statt finden, und auch den Kindern verschiedener Confession, nach erhaltener Genehmigung der Schulvorsteher, gestattet seyn, als Extraner an dem Unterrichte in Sprachen und Wissenschaften Theil zu nehmen.

§. 60. An denjenigen Orten, wo keine katholische Schule vorhanden ist, sollen die daselbst lebenden Katholiken ihre Kinder in die protestantische Ortsschule zu schicken, zwar nicht verbunden seyn, ihnen jedoch freistehen, gegen Entrichtung des Schulgeldes, sie an dem darin zu empfangenden Unterrichte, nur den Religionsunterricht ausgenommen, Theil nehmen zu lassen.

§. 61. Wenn bei gemischten Ehen der evangelische Theil gegen seinen katholischen Ehegatten vor dem katholischen Consistorio eine Scheidungsklage angestellt hat, und von dieser Behörde in Fällen, wo, nach den Principien des evangelischen Eherechts, die gänzliche Scheidung Statt haben konnte, den Grundsätzen der katholischen Kirche gemäß, nur auf lebenslängliche Separation erkannt worden ist; so mag dem in dieser Weise geschiedenen evangelischen Ehegatten die Schließung einer anderweiten Ehe von dem evangelischen Bezirks-Consistorio, in so fern dieses seiner Seits keinen Anstand dabei findet, gestattet werden.

§. 62. Den katholischen Glaubensgenossen aber ist die Verheirathung mit geschiedenen Ehegatten evangelischen Bekenntnisses, so lange der andere geschiedene Ehegatte lebt, nicht gestattet, und sie mögen daher weder von katholischen, noch von evangelischen Pfarrern in den hiesigen Landen mit einander verlobet, aufgeboten, oder copulirt werden.

§. 63. Die Beerdigung verstorbener römisch-katholischer Glaubensgenossen bleibt an den Orten, wo deren Gemeinde einen eigenen Geistlichen und einen eigenen Begräbnisplatz hat, lediglich der Veranstaltung ihrer geistlichen Behörde überlassen. Außerhalb solcher Orte aber bewendet es bei der unterm 5ten Juli 1811. *) an die erbländischen geistlichen Behörden erlassenen Generalverordnung, mit der Erläuterung, daß, im Falle des stillen Begräbnisses, keine Stolgebühren, sondern nur die Kosten des Begräbnisplatzes und der Grube zu bezahlen sind.

§. 64. Die Kirchenbücher der römisch-katholischen Gemeinden, worin alle Trauungs-, Tauf- und Beerdigungs-Handlungen aufzuzeichnen sind, haben gleiche rechtsgültige Glaubwürdigkeit, wie die Kirchenbücher der Gemeinden der andern christlichen Confectionen, sind aber auch den ergangenen gesetzlichen Vorschriften gemäß einzurichten.

§. 65. Die von der evangelisch-lutherischen Kirche gegen die römisch-katholischen Glaubensgenossen sonst verfassungsmäßig ausgeübten Parochial-Zwangs-Rechte fallen für die Zukunft allenthalben hinweg; jedoch in Hinsicht der auf Grundstücken etwa haftenden Parochiallasten bewendet es bei der zeitherigen Verbindlichkeit.

Nach vorstehendem Mandate, welches von den obrigkeitlichen Behörden, in Gemäßheit des Generalis vom 13ten Juli 1796. und des Mandates vom 9ten März 1818. bekannt zu machen ist, haben sich alle geistliche und weltliche Behörden, so wie Alle, welche es angehet, gebührend zu achten, und daran Unsern Willen und Meinung zu vollbringen.

Urkundlich haben Wir dieses

M a n d a t

eigenhändig unterschrieben und Unser Königlich-Insigel vordrucken lassen.

So geschehen zu Dresden, am 19ten Februar 1827.

Friedrich August.

(L.S.)

Gottlob Adolf Ernst Noßitz und Jänschendorf.



U b e r s i c h t

der dem katholisch-geistlichen Consistorio übertragenen Geschäfte.

- 1.) Die Vorschlagung der in der Seelsorge anzustellenden katholischen Geistlichen.
- 2.) Die Vereidung der neu angestellten Geistlichen.
- 3.) Die Aufsicht über den Lebenswandel und die Amtsführung der Geistlichen und die darauf Bezug habenden Zurechtweisungen und Bestrafungen. In Fällen, wo, nach dem Ermessen des Consistorii, eine bloße Zurechtweisung nicht hinreicht, hat dasselbe zuvörderst Vortrag an das apostolische Vicariat zu erstatten.
- 4.) Die Personalsachen der Geistlichen in erster Instanz.
- 5.) Die Bevormundung kranker, abwesender und verschwenderischer Geistlichen.
- 6.) Die Annahme der lektwilligen Verordnungen der Geistlichen.
- 7.) Die Regulirung der Verlassenschaften der Geistlichen.
- 8.) Die Prüfung der, von den zu weltlichen Beistellern im Consistorio sich meldenden Personen, zu fertigenden Probearbeiten.
- 9.) Die Aufsichtsführung über die der katholischen Theologie sich widmenden Jünglinge.
- 10.) Die Vereidung der katholischen Schullehrer, weltlichen Kirchendiener und Todtengräber.
- 11.) Die Aufsicht über die katholischen Schulen, Gottesäcker und milden Stiftungen; das Josephinische Stift und die damit verbundene Burkersrodaische Fräuleinstiftung, ingleichen das Friedrichstädter Krankenstift ausgenommen, welche unter alleiniger Direction des jedesmaligen Vicarii apostolici verbleiben.
- 12.) Die Zurechtweisung und Bestrafung der Schullehrer, weltlichen Kirchendiener und Todtengräber, ingleichen der bei den, dem Consistorio untergeordneten milden Stiftungen, angestellten Personen, wegen geringer Disciplinarvergehen. Bei Bestrafungen ist jedoch zuvörderst Vortrag an das apostolische Vicariat zu erstatten.
- 13.) Die Aufrechthaltung der kirchlichen Gesetze, in so weit nicht von deren Befolgung dispensirt worden ist, zu welchem Behufe das Consistorium von allen dicsfallsigen Dispensationen in Kenntniß gesetzt werden wird.
- 14.) Alle Glaubens- und Gewissens-Sachen in erster Instanz.
- 15.) Das Befugniß, Haustaufen zu erlauben.
- 16.) Die Ehe- und öffentlichen Sponsalien-Sachen in erster Instanz.
- 17.) Die Abnahme der Ledigkeitsseide.

- 18.) Die Cognition über die, gegen die beim Consistorio publicirten Erkenntnisse, welche in der höhern Instanz für das Vicariatsgericht gehören, eingewendeten Lenkungen, in der im 13ten §. des Mandates bestimmten Maße.
- 19.) Die Censur der katholisch-geistlichen Schriften.
- 20.) Die vierteljährige Einreichung tabellarischer Anzeigen an das apostolische Vicariat, über die bei dem Consistorio eingegangenen Sachen und deren Erledigung.
- 21.) Die Einreichung einer Anzeige an das Vicariat bei jedem Jahreschlusse, über die in dem verwichenen Jahre erledigten oder unerledigt gebliebenen Gegenstände.

(Translation.)

(6).—Mandate relative to the practice of the Catholic Ecclesiastical Jurisdiction in the circles of this country, and for the regulation of the reciprocal relations of the Catholic and Evangelical persuasions, of the 19th February, 1827.

WE, Frederick Augustus, by the grace of God, King of Saxony, &c., to all whom it may concern.

As it has been notified by our Mandate of the 16th of February, 1807, that the exercise of the Roman Catholic worship shall for henceforward be placed upon an entire equality with the exercise of the worship of those professing the confession of Augsburg, and that our subjects of both professions shall enjoy without restriction, equal civil and political rights; and as this equality of treatment in all federal States has moreover been decreed by Article XVI of the Act of the Germanic Confederation of the 8th of June, 1815, we deem it expedient to issue the following legal decree for regulating the exercise within its proper limits of the Roman Catholic ecclesiastical jurisdiction, and for the reciprocal relations of the Catholic and Evangelical persuasions.

§ 1. The Apostolical Vicariat is the supreme ecclesiastical authority for those professing the Roman Catholic creed in the four circles, and has in conjunction with the subordinate Catholic Consistory, to administer ecclesiastical affairs and ecclesiastical jurisdiction with respect to them in the same manner as is done by the Evangelical Church Council, in subordination to Evangelical Privy Councillors, and the Consistories under them, as regards those of the Evangelical profession.

§ 2. The Vicar-Apostolic for the time being, having previously communicated the Papal rescript appointing him, has to take the oath of allegiance and of office, and to bind himself at the same time in the administration confided to him to the observance of the laws of the land.

§ 3. The publication by the press or by public placard, of general regulations proceeding either from the Roman See, or found necessary by the Vicariat, shall not take place without our sovereign knowledge, or according to circumstances, without the accompanying *placet*.

We moreover reserve to ourselves the power to decide in cases which may occur, infringing upon our sovereign rights, or in cases of complaint as to abuses of the ecclesiastical authority to be exercised by the Vicariat.

With a view to such decision, communications shall in each case be had between our Privy Council and the Vicar-Apostolic with reference to the question at issue, and a judicial opinion shall be submitted to us by the former, based on such communications.

§ 4. A Catholic Ecclesiastical Consistory is to be established for the administration of the Catholic ecclesiastical jurisdiction in the first instance, which shall be composed of three clerical members and two lay members, qualified according to law for the administration of judicial functions, and in addition to the necessary clerks, of a secretary duly qualified for notarial functions.

§ 5. The Vicar-Apostolic has each time, in cases where no objection exists, to propose to us the clerical as well as the lay members of this Board for our sovereign sanction.

§ 6. The ecclesiastical as well as lay members of this authority, together with the subalterns who are to serve under it, must on their appointment and acceptance of office take the oaths of allegiance and of

office, and must bind themselves, as regards the duties to be performed by them, to the observance of the laws of the land.

§ 7. In the Catholic Ecclesiastical Consistory the presiding ecclesiastic is to bear the title of "Præses," the other members the title of "Consistorial Assessors;" and the first is to rank after the Director, the latter after the Assessors of the Consistory at Leipzig.

The jurisdiction to which the several members are to be subject is, as regards the ecclesiastical members, to be ruled by the provisions of the present mandate, as regards the lay members and the subaltern officials of the Board, except in matters of official duty, with respect to which they are all placed under the Vicariat, by the general regulations contained in sections 18 and 19 of the Mandate of the 13th of March, 1822.

§ 8. Memorials and other writings addressed to the Catholic Ecclesiastical Consistory are to be directed on the outside, "To the Right Reverend Ecclesiastical Catholic Consistory in the Kingdom of Saxony," and in the inside "Right Reverend Sirs." The Vicar is to be addressed "Most Reverend Apostolic Vicar," and on the outside of the document the address is to be, "To the Most Reverend the Vicariat Apostolic in the Kingdom of Saxony."

§ 9. Everything emanating from the Consistory is to be signed by the "Præses," or presiding Consistorial Assessor, and to be countersigned by the Secretary.

§ 10. The Vicariat shall bear a special seal, with the legend "Vicariat Apostolic in the Kingdom of Saxony," and the Consistory, a seal with the legend "Ecclesiastical Catholic Consistory in the Kingdom of Saxony."

§ 11. In matters of organization and in purely ecclesiastical matters which are to be treated before it, as well as in such matters of the personal rights of Catholic ecclesiastics, which are not subject to the cognizance of the civil tribunals, the Catholic Consistory is to be exclusively subordinate to the Apostolic Vicariate.

§ 12. The Vicariat has, however, in regard to matters of organization, only the right of decision in so far as those matters concern the internal organization of the Board. Matters having reference to the external position of the Board with respect to other boards and authorities are, after examination by our Privy Council in conjunction with the Vicar-Apostolic, and after a report from the former, to be equally signed by the latter, to be left to our own decision.

§ 13. An investigation as against the judgments and decisions of the Consistory on such legal questions with respect to which the Vicar-Apostolic has in accordance with section 11 to decide as authority of last resort, may be preliminarily instituted. In deciding on the same, and in discussing the same with the Consistory two further members are to be added to the ordinary members of the Board, one an ecclesiastical and the other a lay member learned in the law.

§ 14. As court of highest appeal in such matters, a Vicarial court is to be established, which, under the presidency of the Vicar-Apostolic, shall consist of two ecclesiastical Vicariat's councillors and three lay councillors, one taken from the Government, one from the High Court of Appeal, and one Catholic Vicariat's Councillor, to be specially appointed for that purpose.

§ 15. In this court the Vicar-Apostolic shall have a casting vote.

§ 16. As regards the Royal confirmation of the Vicarial councillors, the oaths which they shall have to take, and the jurisdiction to which they shall be subject, the same regulations shall obtain as those applicable to the Consistorial Assessors, as specified in §§ 6 and 7. They shall rank immediately after the upper councillors of the Consistory.

§ 17. In every other suit except those specified in § 11 which shall be brought before the Catholic Consistory, the same shall, in the event of appeal, according to the several cases specified in the Mandate of the 13th of March, 1822, section 12 and the following, report to the Government or to the Court of Appeal, and will have to conform to their decisions.

§ 18. All necessary communications to be held with the High Boards

of Government as regards spiritual and ecclesiastical matters, are to take place in Catholic affairs through the Vicariate, in the same manner as with the Protestants they take place through the Church Council, and the Catholic Consistory will have to report to the Vicariate with respect to the same. With subordinate Boards, the Catholic Ecclesiastical Consistory shall be "in statu communicationis."

§ 19. In those matters which according to §§ 11 and 12 are exclusively for the decision of the Apostolic Vicariate, the lay subordinate authorities can only be called upon as well by the Consistory as by the Vicar himself, "per modum requisitionis," to afford the necessary legal assistance, and our authorities, as well as the patrimonial judicial authorities, are hereby ordered to pay proper attention to such requisitions. With respect to all other matters belonging to the competency of the Catholic Ecclesiastical Consistory, we have conferred on the Vicar-Apostolic, and to the Ecclesiastical Consistory subordinate to him, the right to give to those subaltern authorities orders and instructions, and in this respect the latter are accordingly placed under the authority of the former. The Vicariate and the Consistory may likewise employ the circle and amt-captain in conveying instructions, in like manner as is permitted to the higher Protestant ecclesiastical authority.

§ 20. In cases in which the Catholic ecclesiastical authority shall have added an ecclesiastical consistorial assessor or Vicariat's councillor to the lay commission appointed by it, the lay authority shall be charged with the "Directorium actorum," the ecclesiastical joint commissioner with the "Directorium commissionis." But whenever the ecclesiastical joint commissioner shall be not a consistorial assessor or Vicariat's councillor, or the lay commissioner shall have higher rank than the ecclesiastical commissioner, the lay commissioner will likewise be charged with the "Directorium commissionis."

§ 21. Direct citations and summonses are issued by the Catholic Ecclesiastical Consistory, in accordance with the provisions of § 19, as well to the ecclesiastical persons generally subjected to its jurisdiction as likewise to lay persons, who have to recognize its competency only as regards the ecclesiastical matters to be discussed. As regards the serving of such summons on persons who are only mediate subjects, the Consistory will have to demand the assistance of the patrimonial courts of law, as is the case with the Protestant Consistories.

§ 22. The Catholic Ecclesiastical Consistory will be charged with the affairs specified in Annex O. It is endowed, like the Protestant Consistory, with all the privileges of a regularly constituted court of law, as for instance with the right to collect "bona vacantia," to levy money fines and costs as well as fees, the latter according to a rate to be specially published. The proceeds of these receipts are to be carried to account of a fund to be established at the Board, and shall be employed in as far as they may suffice towards the liquidation of the costs of the administration and the legal charges connected therewith.

§ 23. The Catholic Ecclesiastical Consistory has to observe as well in its decrees, ordinances, and decisions, as in the form of its proceedings, the prescriptions of the law of the land, in so far as the prescriptions of the canon law are not likewise requisite, with respect either to questions of marriages opposed to the dogmas of the Catholic Church, or with respect to the punishment of ecclesiastical offences of the Catholic clergy, or of such offences of those of the Catholic persuasion as are liable to ecclesiastical punishment.

§ 24. In cases in which the Catholic Ecclesiastical Consistory are unwilling themselves to decide, they are permitted to apply for a legal only decision to a court of justice of this country.

§ 25. Only such advocates as have received permission "ad praxin juridicam" from Government, are permitted to attend the Catholic Ecclesiastical Consistory; and that Consistory is bound, like the Evangelical Consistory, to the observance of the stamp laws.

§ 26. In respect to suits not having reference to disputed points of law, the Catholic Ecclesiastical Consistory enjoys the same privileges as the Protestant Consistories, and is therefore competent to undertake the

guardianship of sick, absent, or extravagant ecclesiastics, and to receive legal acknowledgments on the part of ecclesiastics for the regulation of the property left by them.

As regards the appointment of special guardians for individual cases, the laws relative to guardianship, cap. 20, § 7, are to be observed.

§ 27. All persons belonging to the Catholic clergy, without distinction as to the higher or lower grades of ordination, are bound, on their appointment as ecclesiastics in the land, to take the oath of allegiance towards us before the Ecclesiastical Catholic Consistory. They are from thenceforward subjected, as regards their persons, to the sole jurisdiction of the Ecclesiastical Catholic Consistory, and in higher resort to the jurisdiction of the Apostolic Vicariat.

In all criminal cases in which they may be involved, in which the law of the land requires a full bench, the Catholic Consistory is bound to demand a Royal Court of Justice for the prosecution, and to delegate an ecclesiastical commissioner to attend the same.

Foreign Catholic ecclesiastics shall likewise, during their stay in this country, enjoy the same privileged position as regards the jurisdiction to which they are subject, which has been personally accorded to the Catholic clergy in functions here.

§ 28. Exceptions from the above principles take place :

1. *In Civil Affairs.*

a. In all cases generally in which Protestant ecclesiastics are likewise bound, notwithstanding the "fori privilegiati" to which they are entitled to have recourse to the lay judges. But the Catholic ecclesiastics may not be summoned directly by the latter ; and the Catholic Consistory must be requested to institute the summons.

b. Whenever a Catholic clergyman undertakes of his own free will a guardianship, he is placed, as regards this trust, under the authority which confirmed him in it.

c. When a Catholic clergyman dies at a place distant from any Catholic Ecclesiastical Court, his property is to be placed under seal by the local authorities of his place of residence, and when such shall have been done, notice thereof is to be given to the Vicariat, with a view to further directions and proceedings.

2. *In Criminal Matters.*

Whenever a special inquiry is decreed against a Catholic clergyman, or imprisonment in the house of correction, or detention in a house of correction, and the punishment shall after the defence not have been mitigated, further proceedings against him are to be exclusively left to the lay tribunals ; unless we should find ourselves induced to commute the penal punishment into one not penal.

3. *In Matters of Police.*

The lay police authorities may proceed against Catholic clergymen by way of prevention, as likewise by arrest, whenever an immediate action of the police power is requisite to obviate the dangers to be anticipated from delay. The party arrested has, however, to be delivered up immediately to the Catholic Ecclesiastical Consistory, for further proceedings.

§ 29. Catholic schoolmasters and inferior church officials belonging to the Catholic worship, have only, as regards their official functions, a privileged personal position before the Catholic ecclesiastical tribunals. Sextons, and stewards and servants of hospitals, only as regards the discipline and organization of affairs relating to the institutions.

§ 30. Persons in the service of Catholic clergymen are not subjected to that tribunal.

§ 31. When representations are made against the decisions or sentences published by the Catholic Consistory in criminal matters, or

matters of police, as regards persons subjected to its jurisdiction, the necessary further decision shall in each case be obtained from some court of justice.

§ 32. All questions of faith and conscience which regard persons of the Catholic persuasion ;

All religious acts appertaining to the Catholic worship ;

All matters relating to the discipline of the Catholic Church and to Catholic religious instruction, belong, as purely spiritual matters, to the competence of the Catholic Ecclesiastical Consistory.

§ 33. The investigation and punishment of excesses which may happen during the performance of divine worship in Catholic churches, belongs likewise to the competency of the Catholic Consistory. The Consistory is, however, bound to submit the same to the Court of Appeal for decision in the last instance, unless the party offending shall be a Catholic clergyman.

§ 34. Catholic church and school buildings, Catholic grave-yards, and such Catholic hospitals as may exist at the period of the publication of this Mandate, with any parcels of land belonging to them, shall be unconditionally subject to the territorial jurisdiction of the Catholic Ecclesiastical Consistory. In respect to the parcels of land appertaining to new charitable institutions for Catholics which may be founded in future, the possession of territorial jurisdiction is to depend in each case on the terms of the dotation.

§ 35. Likewise are subject to this Consistory all matters destined for religious and charitable objects in Catholic congregations, such as, endowment of churches for masses, for schools, and hospitals ; likewise burial and pauper foundations for persons of the Catholic persuasion, as well as all transactions having reference thereto.

§ 36. No right of ecclesiastical asylum exists in these lands.

§ 37. In questions of marriages and marriage-engagements, the Catholic Ecclesiastical Consistory is competent when the accused is a Catholic.

§ 38. The otherwise valid principle that the wife is subject to the same jurisdiction as the husband, is not in such cases applied.

§ 39. In suits brought as to marriage-engagements, that party shall, whenever the parties engaged are of different religious belief, be considered as the defendant, who shall be desirous of receding from the engagement ; when, however, both parties are desirous to annul the engagement, the dissolution belongs to the ecclesiastical judge of the bride.

§ 40. Whenever, in a suit before a Catholic ecclesiastical tribunal in a matter of marriage-engagements, the plaintiff shall desist from her claim to the completion of the marriage, the suit is nevertheless to be carried on by her in other respects, and a valid decision as to questions of alimony and dotation is to be issued in like manner as in the case with the Protestant Consistories.

§ 41. Cases of mere affiliation and alimony do not belong to the ecclesiastical tribunal.

§ 42. With respect to incidental points arising from civil process, or with respect to the jurisdiction "*ex connexitate causarum*," the Catholic Ecclesiastical Consistory shall enjoy the same rights as the Protestant Consistory.

§ 43. Cases relating to marriage-engagements which are brought before the Catholic Ecclesiastical Consistory, are only to be considered, in respect to appeal, as belonging to that class of purely spiritual affairs of which the Apostolic Vicariat has to take exclusive cognizance, when a public betrothment has taken place.

§ 44. The consent of living parents, or, as the case may be, grandparents, is likewise indispensably necessary to all betrothments of subjects professing the Roman Catholic creed ; and regard is to be had to the same, as well by the Catholic clergy, previous to the publication of the bans and the performance of the marriage ceremony, as likewise by the Catholic Ecclesiastical Consistory, in its judgments regarding cases of marriage-engagements.

§ 45. Generally, the Catholic clergy have likewise to observe, with

respect to the publication of the bans and the marriage ceremony, the general regulations of the Saxon marriage laws, such as they are recapitulated in the directions issued to the clergy of the Augsburg Confession, under date of the 15th of January, 1808, and they have with this view received the necessary special instructions through the Apostolic Vicariate.

§ 46. Betrothed persons, one of whom belongs to the Evangelical Confession, the other to the Roman Catholic (unless both should be noble and therefore entitled on the Protestant part, to the exemption from the publication of the bans belonging to the nobility), are bound to have their bans published three times in the churches of both persuasions, namely, in the parishes to which they belong, or within the jurisdiction of which they generally reside, that is to say, in which they are either domiciled, or in which their still living parents reside, even if they should have settled in a different locality from that of their parents.

In places where there is no Catholic church, the bans must be published, even as between Catholics, in the Protestant parish church within the jurisdiction of which they reside.

§ 47. The clergymen who shall have to publish the bans, have previously carefully to examine whether there exists no legal impediment, according to the principles of their church, to the consummation of the contract between the two betrothed; and the bans may not be proceeded with until such impediment shall have been obviated, or in cases where dispensation is necessary, such dispensation of the ecclesiastical authority of the party requiring it shall have been authentically granted.

§ 48. The clergyman who has to perform the ceremony of marriage of two contracted parties, shall not perform it until he shall either have received assurance by means of clerical certificates from both parties, that the bans have been three times published without protest, or shall have received the dispensation from those bans accorded to each party by its own clerical authority. In this latter case the assurance on oath, according to the canon law on the part of the Catholic party, and the declaration in lieu of oath, according to the Protestant marriage laws, on the part of the Evangelical party, that he or she have not contracted any matrimonial engagement with a third party, has to be made. This declaration will, however, have to be made in cases of betrothed parties of different creeds, by each party, before its own ecclesiastical authority.

§ 49. If foreigners, owing to the constitution of their native land, or to other impediment difficult to be removed, are unable to obtain certificates of baptism, or to have their bans published at the place of their birth, or to prove other necessary circumstances, inquiries are to be made of the ecclesiastical authorities of the persuasion to which they belong, as to allowing them to confirm their statements on oath; and these authorities have to decide whether and where such oath is to be tendered; and the marriage is only to be proceeded with whenever it shall have been shown that such oath has been made.

§ 50. The competency of the parish as regards the marriage ceremony is ruled by the faith of the bride; it is however permitted to parties of different faith to be married by the clergyman of the bridegroom, on payment of the usual fees to the clergy of the bride.

§ 51. Whenever a protest shall be tendered against the marriage of two of different faith, or an appeal shall take place, the information shall be laid with the ecclesiastical authority of the bride, who is however bound to give immediate notice of the same to the ecclesiastical authority of the other party.

§ 52. We doubt whether any constraint ought to be imposed upon parents or guardians by legislative enactment as regards the religious faith in which the children of parents of different creeds are to be baptized and educated. The decision, therefore, of such matters is left exclusively to the agreement and decision of parents; and in cases of illegitimate children, to the decision of the mother, which decision is to be observed even after the death of the same; or should parents die without having come to such agreement, it is left to those who have generally to provide for the education of such children.

§ 53. Any engagement relative to the future religious education of the children of a contemplated marriage is on no account to be required from parties of different creeds.

§ 54. Any irregularities of which persons engaged, or the ecclesiastics who have to publish the bans or to perform the ceremony, shall be guilty in contravention of the above regulations, shall be severely punished.

§ 55. The baptism of children born of mixed marriages belongs to the clergyman of the creed in which, according to the agreement of the parents, the child is to be instructed.

§ 56. Should at any place where there is no regularly-appointed Catholic clergyman, the baptism of a child to be ultimately educated in the Catholic faith, be performed by desire of the parents by the Evangelical clergyman, the ordinary fees will have to be paid to the latter.

§ 57. Should, on the other hand, the ceremony be performed by a neighbouring Catholic clergyman, the act, accompanied by the official documents, is to be notified to the Evangelical clergyman of the place where the parents are domiciled, for the purpose of being entered in the church register, on payment of the fees.

§ 58. As regards school instruction in such places where there are Catholic as well as Evangelical schools, the children of Catholic parents are to be exclusively sent to the former, and the children of Evangelical parents to the latter. Under no pretence shall, at such places, children of Catholic parents be received in the Evangelical school, or children of Evangelical parents be received in Catholic schools.

§ 59. An exception shall only be made in this respect as regards classical schools, and it shall be permitted that children of different creeds shall, with the sanction of the schoolmaster, attend the instruction in languages and sciences as strangers.

§ 60. At places where there is no Catholic school, the Catholics there residing shall be allowed, though not be bound, to send their children to the Protestant local school, to take part, on payment of the school money, in the instruction there afforded, excepting always the religious instruction.

§ 61. Whenever in mixed marriages the Evangelical party shall proceed against the Catholic party before the Catholic Consistory for a divorce, and this authority shall, in cases where, according to the Evangelical marriage laws, a complete divorce might take place, decree in accordance with the principles of the Catholic Church, only a separation for life, the Evangelical party to such separation may obtain from the district Evangelical Consistory permission to contract a fresh marriage, in so far as that Consistory shall find no objection to the same.

§ 62. But persons professing the Catholic creed are not permitted to marry divorced persons of the Evangelical persuasion, as long as the other party to the divorced marriage still lives, and they must not therefore be either betrothed, or have their bans published, or be married, either by Catholic or Evangelical clergymen in these lands.

§ 63. The burial of persons of the Roman Catholic faith is left at such places at which the congregation possess a clergyman and a burial-place of their own, exclusively to the management of the ecclesiastical authority. In other places it takes place according to the general regulations addressed on the 5th of July, 1811, to the ecclesiastical authorities of the hereditary lands; it being understood that in cases of burial without service, no fees are to be paid, but only the costs of the locality and of the grave.

§ 64. The church registers of the Roman Catholic congregations in which all acts of marriage, baptism, and burial, are to be recorded, are of the same legal authority as the church registers of the congregations of other Christian denominations, and have to be kept according to the published legal regulations.

§ 65. The parochial compulsory rights which have heretofore been exercised by the Evangelical Lutheran Church over those professing the Roman Catholic faith, are for the future everywhere abolished; but with respect to any parochial liability resting on landed property, the existing obligation shall remain in force.

All ecclesiastical and lay authorities, as well as all whom it may

concern, have implicitly to obey the above Mandate, which is to be published by the authorities in conformity with the General Law of the 13th of July, 1796, and of the Mandate of the 9th of March, 1818, and to fulfil our will and intention with respect to the same.

In witness whereof we have furnished the present Mandate with our signature, and have caused to be affixed to it our Royal seal.

Done at Dresden, February 19, 1827.

(Signed) **FREDERICK AUGUSTUS.**
(L.S.) **GOTTLOB ADOLF ERNEST NOSTIZ and JANKENDORF.**

ANNEX. ☉

Summary of the affairs with which the Catholic Ecclesiastical Consistory is intrusted.

1. IT has to propose the Catholic ecclesiastics to be appointed to the cure of souls.
2. It has to administer the oath to the ecclesiastics appointed.
3. It has the superintendence over the moral and official conduct of the clergymen, and over the admonitions and punishments having reference thereto. In cases in which, in the opinion of the Consistory, a mere admonition does not suffice, the same has, in the first instance, to report to the Apostolic Vicariat.
4. It is charged with the personal affairs of the clergy, as tribunal of first instance.
5. With the guardianship of sick, absent, and extravagant clergymen.
6. With the execution of the testamentary dispositions of clergymen.
7. With the administration of the effects left by them.
8. With the examination of the papers drawn up as proofs of their capacity by candidates for the lay assessorships in the Consistory.
9. With the superintendence of youths devoting themselves to the study of Catholic theology.
10. With the administering of the oaths to Catholic schoolmasters, lay church servants, and sextons.
11. With the superintendence over Catholic schools, burial-places, and charitable institutions, with the exception of the foundation Josephine and the therewith connected ladies foundation of Berkersroda, as well as the Frederickstadt foundation for the sick, which remain under the exclusive management of the Vicar Apostolic for the time being.
12. With the admonition and punishment of schoolmasters, of lay church servants, and gravediggers, as well as of the persons holding situations in the charitable institutions subordinate to the Consistory, as far as regards unimportant violations of discipline. In the case of punishment, however, a previous report is to be made to the Apostolic Vicariat.
13. With the maintenance of the ecclesiastical laws, in so far as their observance has not been dispensed with, for which purpose the Consistory will have to be informed as regards such dispensation.
14. With all questions of faith and conscience, as tribunal of first resort.
15. With the right to permit baptism in private houses.
16. With questions relating to marriage and matrimonial engagements as tribunal of first resort.
17. With the administration of oaths as to celibacy.
18. With the cognizance of the explanations made within the limits pointed out in the 13th Sect. of the Mandate as regards the decision published by the Consistory, which belong to the jurisdiction of the Vicariat's tribunal as the higher Court.
19. With the censorship of Catholic ecclesiastical works.
20. With a quarterly return of tabular reports to the Apostolic Vicariat, concerning the matters which have been brought before the Consistory, and with respect to the decision on the same.
21. With a return to the Vicariat, at the close of each year, of such cases as have been decided upon in the course of that year, or which have remained undecided.

Inclosure 3 in No. 25.

Law of February 20. 1827.

7.) M a n d a t,

den Uibertritt von einer chrißlichen Confession zur andern betreffend;
vom 20sten Febrnar 1827.

WM Friedrich August, von GOTTES Gnaden, König von Sachsen &c. &c. &c. thun hiermit kund und zu wissen: das Wir für gut befunden haben, in Rücksicht des Uibertrittes von einer chrißlichen Confession zu einer andern, Folgendes anzuordnen:

§. 1. Der Uibertritt von einer chrißlichen Confession zu einer andern kann nicht gehindert werden, wenn nur der Uibertretende das e i n u n d z w a n z i g s t e Jahr seines Alters erfüllt hat, und nicht in einem solchen Geistes- und Gemüths-Zustande sich befindet, der ihn zu einer nach freier Uiberzeugung zu fassenden Entschließung überhaupt unfähig macht. Es soll jedoch minderjährigen Personen in articulo mortis der Uibertritt zu einer andern Confession unter den in §. 8. erfolgenden Bestimmungen gestattet seyn.

§. 2. Wer zu einem solchen Uibertritte sich bewogen findet, hat sein Vorhaben bei dem Orts-Pfarrer seiner bisherigen Confession, oder wenn mehrere derselben daselbst angestellt sind, bei dem ersten Geistlichen seines Wohnorts, persönlich anzuzeigen, welcher ihn sodann über die Wichtigkeit desselben zu belehren und zu dessen nochmaliger reiflicher Erwägung, während einer Bedenkzeit von vier Wochen zu ermahnen hat.

§. 3. Bei diesen Belehrungen und Ermahnungen hat sich der Geistliche einer Gerabwürdigung der Confession, zu der der Ungemeldete überzutreten beabsichtigt, nicht zu erlauben.

§. 4. Beharrt der Gemeldete, der ihm geschehenen Vorstellungen ungeachtet, bei seinem Vorhaben, so ist ihm von dem geistlichen ein schriftliches Zeugniß, wegen der geschehenen Anzeige, und wegen dessen Entlassung aus seiner bisherigen Kirchengemeinde, auszustellen.

§. 5. Ohne ein solches Zeugniß und ohne vorgängige Prüfung und Vorbereitung darf kein Geistlicher den Uibertritt eines andern chrißlichen Glaubensverwandten zu seiner Kirche gestatten und denselben zu seiner Kirchengemeinde aufnehmen, sondern er ist im Contraventionfalle, mit einer Geldbuße von f u n f z i g T h a l e r n — — — und im Wiederholungsfalle mit Suspension und, nach Befinden, mit Remotion vom Amte zu bestrafen.

§. 6. Ein geheimer Uibertritt zieht, sobald er bekannt worden ist, nicht nur eben so, wie ein öffentlicher, den Verlust des an eine bestimmte, von dem Uibertretenden verlassene Confession gebundenen Amtes- oder Familien-Rechts, sondern noch überdieß im ersten Falle, insofern ein geleisteter Religionsseid verletzt worden, eine besondere angemessene Bestrafung, und in beiden Fällen die Restitution der seit dem Uibertritte zur Ungebühr gezogenen Nutzungen nach sich.

§. 7. Sollte ein Geistlicher ein Individuum in seine Kirche, mit dem Vorbehalte, sich dessen ungeachtet äußerlich zu seiner bisherigen Kirche halten zu dürfen, aufnehmen, so ist er mit Remotion vom Amte zu bestrafen.

§. 8. Ein in articulo mortis erfolgter Uibertritt ist für dessen Person gütig; jedoch muß derselbe im Falle der Genesung seine Bestätigung in der §. 2. fg. vorgeschriebenen Maße erhalten. Auf die Kinder des Uibergetretenen hat der geschehene Uibertritt, es möge Bestätigung erfolgt seyn oder nicht, keinen Bezug.

§. 9. Alle Verleitung zum Uibertritte durch Versprechungen, Drohungen oder Gerabwürdigung der andern Confession, wird von der competenten Obrigkeit dessen, der sich ihrer schuldig macht, mit f u n f z i g T h a l e r n — — — Geldbuße, und im Wiederholungsfalle noch härter, bei Geistlichen irgend einer Confession aber, mit Dienstentsehung bestraft.

§. 10. Von dem Tage des erfolgten Uibertrittes an hört der Uibergetretene auf, unter dem Gesetze und der geistlichen Behörde der verlassenen Kirche zu stehen, verliert die Rechte der Mitglieder derselben, und wird aller Rechte und Verbindlichkeiten der andern Kirche theilhaft, ohne daß jedoch eine rückwirkende Kraft des Uibertrittes Statt finden kann; indem vielmehr auch der Uibergetretene alles das, was er bis zu seinem Uibertritte genossen hat, behält, dagegen auch, wozu er bis dahin verbunden war, zu leisten schuldig bleibt.

§. 11. Auf die Kinder, die das vierzehnte Jahr ihres Alters bereits überschritten

haben, hat der Übergang des Einen der Aeltern, oder auch Beider, zu einer andern Confession, keinen Einfluß, sondern sie werden in der zeitherigen Confession forterzogen, bis sie, nach erreichter Mündigkeit, selbst die Confession wählen können, bei welcher sie verbleiben, oder zu welcher sie sich wenden wollen. In Ansehung jüngerer Kinder mag es von der Vereinigung der Aeltern abhängen, in welcher Confession sie, nach dem Übertritte derselben, oder Eines von ihnen, zu einer andern Confession erzogen werden sollen.

Nach Vorstehendem haben sich alle geistliche und weltliche Behörden auch sonst Alle, welche es angehet, gebührend zu achten und daran Unsern Willen und Meinung zu vollbringen.

Urkundlich haben Wir dieses

M a n d a t

eigenhändig unterschrieben und Unser Königlichcs Siegel vordrucken lassen. So geschehen zu Dresden, am 20sten Februar 1827.

F r i e d r i c h A u g u s t.

(L.S.)

Gottlob Adolf Ernst Rostitz und Sänckendorf.

(Translation.)

(7.) Mandate relative to the Secession from one Christian persuasion to the other, of the 20th of February, 1827.

WE, Frederick Augustus, by the grace of God King of Saxony, make known that we have deemed it expedient to make the following regulations as regards the secession from one Christian persuasion to another:

§ 1. The secession from one Christian persuasion to another cannot be prevented wherever the seceding party shall have completed his twenty-first year, and is not in such a state of mind and intellect as to render him generally incapable of forming a decision upon unbiassed conviction. The secession to another persuasion shall, however, be permitted to persons under age "in articulo mortis," under the limitations specified in § 8.

§ 2. Whoever may feel himself induced to change his creed, has to announce the same, personally, to the local clergyman of the confession to which he has hitherto belonged; or if there be more than one, to the principal clergyman of the place of his residence, who will have to instruct him as to the importance of his decision, and admonish him to reconsider the matter fully during a period of four weeks.

§ 3. In affording this instruction and these admonitions, the clergyman will have to abstain from any observation tending to degrade the creed to which the person in question intends to conform.

§ 4. Should the person in question, notwithstanding the representations made to him, adhere to his design, the clergyman is to furnish him with a written certificate as to the notice given, and as to his dismissal from the congregation to which he had hitherto belonged.

§ 5. Without such certificate and without previous examination and preparation, no clergyman will permit the secession to his own church, and the reception into his own congregation of any person belonging to another communion; and in case of contravention, such clergyman is to be visited with a penalty of fifty dollars; and in case of recurrence of the offence with suspension, and according to circumstances with removal from his office.

§ 6. A secret secession entails, as soon as it shall become known, not only like a public one, the forfeiture of any official or family right connected with the creed abandoned by the seceder, but likewise in the first case, if any religious oath has been violated, a commensurate punishment, and in both cases the restitution of all usufruct improperly retained since the secession.

§ 7. Should any clergyman receive an individual into his church with the reservation that he may still to outward appearance conform to the church to which he has hitherto belonged, such clergyman is to be punished by removal from his cure.

§ 8. A secession made "in articulo mortis" is valid for the person seceding, but should he recover, he must receive confirmation of the same in the manner pointed out in § 2. The said change of religion is to exercise no influence upon the children of the seceder, whether he obtains the confirmation or not.

§ 9. Every inducement to secede by means of promises, threats, or depreciation of other creeds, is to be visited by the competent authorities of the party transgressing, with a penalty of fifty dollars; and on a recurrence of the transgression, more severely; and in the case of a clergyman of any communion, by dismissal from his cure.

§ 10. From the day on which the secession shall have been effected, the seceder ceases to be under the law and the ecclesiastical authority of the church he has left; loses the rights enjoyed by members of the same, and becomes entitled to all rights and liable to all obligations of the other church; but the change cannot exercise a retroactive effect, inasmuch as the seceder retains everything in the possession of which he was up to his secession, but is likewise bound to perform everything to which he was liable up to that period.

§ 11. The conversion of one parent or of both to a different faith has no influence upon children who have already passed the fourteenth year of their age: they will continue to be educated in the persuasion to which they have hitherto belonged until after they shall have become of age, they can choose in what communion they would remain, or to what communion they would turn. As regards younger children, it is to depend upon the agreement of the parents, in what profession of faith, after the secession of the parents or of one of them, those children shall have to be educated.

All ecclesiastics and lay authorities, as well as all whom it may concern, will strictly obey what precedes, and will carry our will and intention with respect to the same into effect.

In witness whereof we have signed this Mandate with our hand, and have caused our royal seal to be affixed thereto.

Done at Dresden, the 20th of February, 1827.

(Signed) **FREDERICK AUGUSTUS.**

(L.S.) **GOTTLÖB ADOLF ERNEST NOSTITZ and JANKENDORF.**

Inclosure 4 in No. 25.

Regulations of 1837.

Regulativ, die Ausübung des weltlichen Hoheitsrechts über die katholische Kirche im Königreiche Sachsen betr.:

1.

Weltliches Hoheitsrecht über die katholische Kirche.

Dem König steht über die katholische Kirche, wie über jede andere, im Königreiche aufgenommene, Religionsgesellschaft, das weltliche Hoheitsrecht (*jus circa sacra*) zu.

2.

Behörden zu Ausbildung desselben.

Die, in diesem Hoheitsrechte enthaltenen, Befugnisse werden, nach Maßgabe der Verfassungsurkunde §. 32, 33, 56, 57, 58, 59 und 60 und der Verordnung, die Einrichtung der Ministerial-Departements betr., vom 7ten November 1831. §. 4. unter E. I. II. III und IV., durch das Ministerium des Cultus und öffentlichen Unterrichts ausgeübt.

Die Competenz des Gesamt-Ministerii hierbei ist nach den, in der erwähnten Verordnung §. 4. unter G. enthaltenen, allgemeinen Grundsätzen zu beurtheilen.

3.

Königliches Placet.

Alle allgemeine Anordnungen und Erlasse des apostolischen Vicariats oder anderer katholisch-geistlicher Behörden im Königreiche, welche durch irgend eine Weise der Veröffentlichung zur allgemeinen Kenntniß der katholischen Gemeinden gebracht werden sollen, sind zunächst dem König, zu Ertheilung des landesherrlichen Placet, vorzulegen und vor dessen Ertheilung nichtig.

Die Vorlegung erfolgt durch das Ministerium des Cultus und öffentlichen Unterrichts, welches in der hierauf zu erlassenden Verfügung ausdrücklich zu bemerken hat, daß das Placet ertheilt worden sei.

4.

Fortsetzung.

Eben dasselbe gilt auch von allen und jeden Bullen, Breven und sonstigen Erlassen des römischen Stuhls und zwar ohne Unterschied, sie mögen nun allgemeinen Inhalts sein, oder nur einzelne Kirchen, Stiftungen, Gemeinden oder Einwohner angehen, in so fern sie im Königreiche publicirt, oder zur Anwendung gebracht werden sollen, (vergl. §. 13) nicht weniger von bereits ergangenen dergleichen Erlassen, wenn sie neuerdings bekannt gemacht werden sollen.

5.

Fortsetzung.

Erfolgt die Bekanntmachung durch den Druck oder durch öffentlichen Anschlag, so ist jederzeit in dem Erlasse selbst des ertheilten Königl. Placet ausdrücklich Erwähnung zu thun; jedoch hat auch bei andern Arten der Bekanntmachung die Erwähnung des Placet alsdann zu geschehen, wenn dieselbe vom Könige ausnahmsweise für nöthig erachtet und demgemäß durch das Ministerium des Cultus und öffentlichen Unterrichts besonders angeordnet wird.

6.

Fortsetzung.

Die landesherrlich genehmigten Erlasse bleiben so lange in Kraft, als nicht im Staate durch neuere Anordnungen etwas anderes eingeführt wird.

7.

Verhältniß der katholischen Geistlichkeit zum Staate.

Wegen des Verhältnisses der katholischen Geistlichkeit zum Staate bewendet es bei §. 58 und 59 der Verfassungsurkunde.

Die katholischen Geistlichen haben daher bei ihrer Anstellung den §. 139 der Verfassungsurkunde vorgeschriebenen Eid vor dem katholisch-geistlichen Consistorio zu leisten. In gleicher Weise hat die Verpflichtung des apostolischen Vicars, nach Darlegung des, die ihm beschehene Delegation enthaltenden, päpstlichen Schreibens, jedoch vor dem Könige im Beisein des Vorstandes des Ministeriums des Cultus und öffentlichen Unterrichts zu erfolgen.

8.

Fortsetzung.

Kein Geistlicher darf ohne Genehmigung des Königs Würden, Pfründen, Pensionen, Orden oder Ehrentitel von Auswärtigen annehmen.

9.

Schutz derselben.

Den katholischen Geistlichen wird in derselben Weise, wie den Geistlichen der übrigen, im Königreiche mit verfassungsmäßiger Rechtsgleichheit bestehenden, christlichen Confessionen, jede, zur Erfüllung ihres Berufs erforderliche gesetzliche Unterstützung und voller Schutz, in der, ihrer Amtswürde gebührenden, Achtung und Auszeichnung gewährt.

10.

Anstellungen im Vicariatsgericht und katholisch-geistlichen Consistorio.

Die bei dem Vicariatsgerichte anzustellenden Räte, mit Ausnahme der aus dem Ober-Appellationsgerichte dazu deputirten Räte, und die Mitglieder des katholisch-geistlichen Consistorii werden auf Vorschlag des apostolischen Vicars, wobei Inländer vorzugsweise zu berücksichtigen sind, und auf Vortrag des Ministerii des Cultus und öffentlichen Unterrichts, vom Könige bestätigt.

Zur Ernennung des untergeordneten Personals bei dem apostolischen Vicariate ist der apostolische Vicar, und bei dem katholisch-geistlichen Consistorio der Präses desselben fernerhin beauftragt.

11.

Besetzung katholischer Kirchen und Schulstellen.

Das dem Könige zustehende Collaturrecht über diejenigen katholischen Kirchen- und Schulstellen im Königreiche, wo solches nicht von Privaten besonders erworben worden ist, wird ferner vom apostolischen Vicar auftragsweise ausgeübt.

Hierbei hat derselbe folgende Bestimmungen zu beobachten:

- a) Zu geistlichen und Schulstellen sind thunlichst Inländer, oder doch Deutsche, welche in Deutschland ihre Bildung erlangt haben, zu wählen.
- b) Die neugewählten Geistlichen müssen die canonischen Eigenschaften besitzen und eine öffentlich abzuhaltende Prüfung bei dem katholisch-geistlichen Consistorio bestehen.
- c) Vor der Uebertragung einer Pfarrei oder der Function eines Caplans hat der apostolische Vicar dem Ministerio des Cultus und öffentlichen Unterrichts die getroffene Wahl, das Ergebniß der Prüfung und die Lebensumstände des Gewählten, unter Beifügung der Zeugnisse der Bildungsanstalten, welche derselbe besucht hat, anzuzeigen, auch ist bei ersterer zugleich zu bemerken, welche Stelle dem Pfarrer übertragen werden solle, und wie selbige erledigt worden sei.

Sollte dem Ministerio bei der Wahl ein Bedenken beigehen und dieses durch Rücksprache mit dem apostolischen Vicar nicht gehoben werden, so hat das Ministerium die Sache dem Könige vorzulegen.

- d) Schulanwärter sind den, durch das Volksschulgesetz vom 6ten Juni 1835, §. 43, vorgeschriebenen Prüfungen rücksichtlich der allgemeinen Unterrichts-Gegenstände vor den dazu überhaupt geordneten Behörden unterworfen, und dürfen ohne der letzteren amtliches Zeugniß über deren genügende Tüchtigkeit nicht angestellt werden. Nur die Prüfung in den Religionskenntnissen, sowie die Anstellung eines Schulanwärter oder Schullehrers in einem ständigen Schullehre erforderliche Anstellungsprüfung, haben solche vor dem katholisch-geistlichen Consistorio zu bestehen.

Die Verpflichtung der Schullehrer hat nach dem, durch die Verordnung vom 2ten November 1837, unter B., vorgeschriebenen Formulare zu erfolgen, kann jedoch bei Ausländern bis nach Ablauf einer angemessenen Versuchszeit ausgesetzt werden.

12.

Zischtitel.

Soll Seiten des Staates für anzustellende Pfarrvicarien oder Hülfsgeistliche ein Zischtitel angewiesen werden, so hat der apostolische Vicar das Ministerium des Cultus und öffentlichen Unterrichts von der Nothwendigkeit einer solchen Anstellung in Kenntniß zu setzen, welches den diesfälligen Antrag dem König vorlegen wird.

13.

Dispensationen.

Dispensationen, welche verbotene Verwandtschaftsgrade und sonstige Ehehindernisse, Aufgebot, Trauung, Trauerzeit oder andere zur Entscheidung der kirchlichen Behörde gehörige Punkte betreffen, werden hinsichtlich der katholischen Unterthanen auch ferner von den katholisch-geistlichen Obern ertheilt. Es dürfen aber nur solche Dispensationen ertheilt werden, welche mit den Landesgesetzen vereinbar sind.

Wird jedoch die Ertheilung einer Dispensation, welche, Behufs der Eingehung einer gemischten Ehe, gesucht wird, und nach dem katholischen Kirchenrechte an sich zulässig ist, aus einem Grunde abge schlagen, der nach den Landesgesetzen unstatthaft ist, so kann die gesuchte Dispensation durch das Ministerium des Cultus und öffentlichen Unterrichts ertheilt werden. (Gesetz vom 1. November 1836, §. 4.)

14.

Kirchliche Streitigkeiten.

Kirchliche Streitigkeiten katholischer Unterthanen sind von den deshalb im Lande bestehenden Behörden und nach den Landesgesetzen, so weit diese darauf Anwendung leiden, zur Erledigung zu bringen, und können unter keinerlei Verwande außerhalb des Landes und vor auswärtigen Richtern verhandelt werden.

15.

Aufsicht über die katholisch-geistlichen Fonds.

Die Fonds der katholischen Kirchen, Schulen und geistlichen Stiftungen stehen unter der Aufsicht des apostolischen Vicars; er hat aber dem Ministerio des Cultus und öffentlichen Unterrichts, in Folge der demselben obliegenden Oberaufsicht über diese Fonds aller Confessionen, auf Erfordern, nach Befinden alljährlich ausreichende Nachweisungen über die Verwaltung der ersteren mitzutheilen.

Jede neue Stiftung ist zur Bestätigung und jeder Zuwachs durch Schenkung oder Vermächtniß zu einem bereits vorhandenen Fond zur Kenntnißnahme dem Ministerio des Cultus und öffentlichen Unterrichts anzuzeigen.

Eine Veräußerung von Grundeigenthum und nughbaren Rechten katholischer Kirchen, Schulen und Stiftungen darf ohne durch das Ministerium des Cultus und öffentlichen Unterrichts einzuholende Genehmigung des Königs nicht geschehen.

16.

Königliche Genehmigung neuer geistlicher Einrichtungen.

Neue geistliche Einrichtungen, welche in polizeilicher, national-ökonomischer, oder finanzieller Hinsicht den Staat oder dessen bürgerliche Einrichtungen ganz oder theilweise berühren, namentlich die Errichtung katholischer Kirchen, Schulen und anderer geistlicher Anstalten, dürfen nicht ohne königliche, nach dem vorhandenen Bedürfnisse zu bemessende, auf Vortrag des Ministerii des Cultus und öffentlichen Unterrichts ertheilte Genehmigung getroffen werden.

Insbessondere gilt dieses auch von Bestimmung oder Veränderung der Parochialgrenzen, sowie von jeder Einrichtung eines neuen Gottesdienstes, welcher über die Grenzen der einfachen Hausandacht hinausgeht.

Diese Vorschrift ist auch auf Errichtung oder Aufnahme religiöser Vereine oder Bruderschaften (congregaciones, sodalitates s. sodalitia societates, confraternitates religiosas) in hiesigen Landen zu beziehen.

17.

Fortsetzung.

Die Bildung neuer katholischer Kirchen- und Schulgemeinden wird nur dann gestattet werden, wenn dieselben zu Unterhaltung der Kirchen- und Scholdiener, zu Herstellung und Erhaltung der Kirche und geistlichen Gebäude und zu den nöthigen Ausgaben für den Gottesdienst, die erforderlichen Mittel nachweisen.

18.

Kirchengewalt.

Die Kirchengewalt — das Befugniß, die innern Angelegenheiten der Kirche zu ordnen und zu leiten — (potestas ecclesiastica, jus episcopale, jus in sacra) steht über die katholische Kirche den katholisch-geistlichen Behörden zu.

Das Ministerium des Cultus und öffentlichen Unterrichts ist jedoch befugt, auch über diese Angelegenheiten nöthigen Falls Auskunft zu verlangen, um der, ihm vermöge des Königl. Schutz- und Oberaufsichtsrechts obliegenden Pflicht Genüge leisten zu können und darauf zu sehen, daß nichts vorgenommen werde, was dem allgemeinen kirchlichen Zwecke Nachtheil bringen, die öffentliche Ruhe stören, die Rechte Einzelner gefährden, oder die dem Staate und andern Religionsgesellschaften schuldige Achtung verletzen könnte.

19.

Königliche Anordnungen in Bezug auf kirchliche Feierlichkeiten und Gebete.

Dem Könige steht es zu, auch in den katholischen Kirchen des Königreichs Feierlichkeiten und Gebete zu verlangen und den Grad der dabei stattfindenden Feier, jedoch unbeschadet der besondern Einrichtungen des katholischen Gottesdienstes, zu bestimmen.

Zu außerordentlichen allgemeinen kirchlichen Feierlichkeiten in der katholischen Kirche ist jedesmal die Königl. Bewilligung einzuholen.

Alle dergleichen Anordnungen werden durch das Ministerium des Cultus und öffentlichen Unterrichts, oder, insofern sie Exequien und ähnliche, nur den katholischen Hofgottesdienst in Dresden angehende Feierlichkeiten betreffen, durch das Ministerium des Königl. Hauses an das apostolische Vicariat erlassen.

20.

Wo die an den König gerichteten, Schriften des apostolischen Vicariats und die Beschwerden gegen selbiges eingereicht werden.

Das apostolische Vicariat hat seine an den König gerichteten Schriften und Anzeigen bei dem Ministerio des Cultus und öffentlichen Unterrichts einzureichen.

Ausgenommen sind die Schriften und Anzeigen wegen solchen Angelegenheiten des katholischen Hofgottesdienstes, welche zu dem Ressort des Ministerii des Königl. Hauses gehören und dahin abzugeben sind, und die Beschwerden über Verfügungen von Ministerien, welche bei dem König unmittelbar eingereicht werden.

Beschwerden über Mißbrauch der von dem apostolischen Vicar auszuübenden geistlichen Gewalt (§. 58 der Verfassungsurkunde) sind zunächst bei dem Ministerio des Cultus und öffentlichen Unterrichts einzureichen.

21.

Verbindlichkeit der Anordnungen aus dem Ministerio des Cultus und öffentlichen Unterrichts für das apostolische Vicariat.

Dem apostolischen Vicariate liegt ob, die aus dem Ministerio des Cultus und öffentlichen Unterrichts ergehenden Anordnungen, insofern sie äußere Angelegenheiten der katholischen Confession und der zu ihr gehörigen Geistlichkeit betreffen, ohne Einschränkung, in Ansehung der innern kirchlichen Angelegenheiten aber, nach den oben §. 17 angegebenen nähern Bestimmungen nachzukommen, oder, wenn sich selbiges etwa durch katholisch-kirchliche Vorschriften behindert glauben sollte, die desfalligen Gründe dem Ministerio darzulegen, worauf letzteres die Entschließung des Königs einholen wird.

22.

Zuziehung eines katholischen Ministerialraths bei dem Ministerio des Cultus und öffentlichen Unterrichts.

Um den katholischen Glaubensgenossen die vollkommenste Gewähr der Unparteilichkeit des Ministerii des Cultus und öffentlichen Unterrichts zu geben, wird bei selbigem jederzeit ein rechtskundiger katholischer Ministerialrath angestellt sein, welcher bei den hauptsächlichsten Entschließungen in katholischen Kirchen- und Schulsachen, so wie bei den Entscheidungen über die von katholisch-geistlichen Behörden, oder gegen selbige geführten Beschwerden, in so weit sie überhaupt zu der Competenz des Ministerii gehören, zuzuziehen ist und das Befugniß hat, wenn er sich nicht einverstehen kann, auf Vortrag an den König zu protestiren.

23.

Aufhebung entgegenstehender Bestimmungen.

Alle diesem Regulativ entgegenlaufende bisherige Bestimmungen werden hierdurch aufgehoben.

24.

Anordnung in der Oberlausitz.

Die Bestimmungen des gegenwärtigen Regulativs sind auch rücksichtlich der Oberlausitz, jedoch unter Beachtung der eigenthümlichen Verfassungs- und Competenzverhältnisse dieser Provinz, in Anwendung zu bringen.

(Translation.)

Regulations concerning the Exercise of the Royal Supremacy (jus circa sacra) with regard to the Catholic Church in the Kingdom of Saxony.

1.—*Royal Supremacy with regard to the Catholic Church.*

TO the King appertains the supremacy (*jus circa sacra*) over the Catholic Church, like over every other religious communion admitted in the kingdom.

2.—*Authorities exercising the same.*

The power given by this right of supremacy is exercised in conformity with the Constitutional Charter, § 32, 33, 56, 58, 59, and 60, and the Ordinance respecting the ministerial departments of 7th November, 1831, § 4, under E, I, II, III, and IV, by the Department for Worship and Public Instruction.

The competency of all the ministry in this respect is to be judged according to the general principles laid down in the mentioned Ordinance, § 4, under G.

3.—*Royal Placet.*

All General Ordinances and Enactments of the Vicars-Apostolic or other Catholic ecclesiastical authorities in the kingdom, which, by any means of promulgation, are to be brought to the general knowledge of the Catholic communions are, first of all, to be submitted to the King, in order to obtain the Royal placet, and they remain without force until this has been given.

This placing before the King is done by the Minister for Worship and Public Instruction, who, in his rescript thereon, has to state explicitly that the *placet* has been given.

4.—*Continuation.*

This applies likewise to all bulls, briefs, and other decrees of the Roman See, and indeed without any distinction, whether they be of general import or merely single ecclesiastical foundations concerning communities or individuals, if they are to be published, or to be carried into effect (compare § 13), as it also applies to similar decrees already issued, if they are to be promulgated anew.

5.—*Continuation.*

If the promulgation takes place by means of the press, or of posting up in public places, then an express mention of the *placet* is to appear in the decree itself; but also if other means of promulgation be employed, the mentioning of the *placet* is to appear, in case the King should deem it necessary as an exception, and which the Minister for Worship and Public Instruction will specially order accordingly.

6.—*Continuation.*

The decrees allowed by the Sovereign remain in force so long as nothing different is enacted in the State by later ordinances.

7.—*Relation of the Catholic Clergy to the State.*

The relation of the Catholic clergy to the State is determined by § 58 and 59 of the Charter. Hence the Catholic ecclesiastics at their installation have to take the oath prescribed by the § 139 of the Charter, before the Catholic Ecclesiastical Consistory. In like manner, the swearing in of the Vicar-Apostolic takes place after having produced the Pope's edict containing his delegation; this is to be done, however, before the King, and in presence of the Minister for Worship and Public Instruction.

8.—*Continuation.*

No ecclesiastic is permitted, without the consent of the King, to accept of foreigners, any dignities, benefices, pensions, orders, or titles of honour.

9.—*Protection of the same.*

Like the ecclesiastics of other Christian communions which exist in the kingdom with constitutional equality of right, so also do the Catholic ecclesiastics receive every lawful assistance and complete protection requisite for the fulfilling of their vocation, with the respect and distinction due to the dignity of their office.

10.—*Appointments to the Judgment Court of Vicars-Apostolic, and to the Catholic Ecclesiastical Consistory.*

The King confirms the counsellors to be appointed to the judgment Court of Vicars-Apostolic, with the exception of the counsellors deputed thereto from the Superior Court of Appeal, and the members of the Catholic Ecclesiastical Consistory, on the presentation by the Vicar-Apostolic, for which purpose natives are to have the preference, and on the report of the Minister for Worship and Public Instruction.

The subordinate functionaries have to be nominated, henceforward, by the Vicar-Apostolic; and those for the Catholic Ecclesiastical Consistory, by the President.

11.—*Appointing to Offices in Catholic Churches and Schools.*

The right of collation appertaining to the King with regard to offices in Catholic churches and schools,—wherever it has not been acquired by private individuals,—is henceforth to be exercised by the Vicar-Apostolic, as being commissioned thereto.

For that purpose he has to observe the following directions :

a. To offices for churches and schools, natives are to be selected if practicable, or at least Germans who have received their education in Germany.

b. The newly selected ecclesiastics must have the canonical qualities, and undergo by the Catholic Ecclesiastical Consistory an examination, which is to be held in public.

c. Previous to the conferring of a curacy, or the function of a chaplain, the Vicar-Apostolic has to apprise the Department for Worship and Public Instruction, of the selection that has been made, of the result of the examination, of the way of life of the selected party, and at the same time, to transmit the testimonials of the educational institutions which he has frequented. With respect to the first, it has also to be mentioned what curacy the ecclesiastic is to have, and how the same became vacant.

Should any scruple arise in the ministerial department with regard to the selection, and that the same, after consultation with the Vicar-Apostolic, could not be removed, in that case the said department has to submit the matter to the King.

d. Candidates for schoolmasterships have to undergo by the regular authorities the examinations directed by the law for national schools, of 6th June, 1835, sect. 43, touching the general subjects of instruction; and they must not be appointed without the official testimonial from the latter respecting their satisfactory qualification. Only the examination on religious knowledge, as also the required appointments examination of a candidate to a schoolmastership, or of a schoolmaster with a permanent place, have to be undergone before the Catholic Ecclesiastical Consistory.

The swearing-in of the schoolmasters is to take place in conformity with the formulary prescribed by the enactment of 2nd November, 1837, under B. With regard to foreigners, however, this may be postponed for a commensurate period of probation.

12.—*Board Allowance (titulas mensa).*

Should the Government be asked to make a board allowance for newly to be appointed vicars, or assistant-ecclesiastics, in that case the Vicar-Apostolic has to acquaint the Department for Worship and Public Instruction with the necessity of such an appointment, and the said department will submit such application to the King.

13.—*Dispensations.*

Dispensations which have reference to prohibited degrees of relationship and other disabilities to contract a marriage, publication of bans, the nuptial ceremony, time of mourning, or other points to be decided by the ecclesiastical authority, are, so far as regards Catholic subjects, likewise to be given, henceforward, by the Catholic ecclesiastical superiors. But only such dispensations can be granted as are consistent with the laws of the country.

If, however, a dispensation be applied for, respecting a mixed marriage, which, according to the Catholic canons, is in itself allowable, but which is refused for some other reason unwarranted by the laws of the country, in such a case the desired dispensation may be granted by the Department for Worship and Public Instruction. (Law of 1st November, 1836, sect. 4.)

14.—*Church Disputes.*

Church disputes between Catholic subjects are to be adjusted by the authorities of the country appointed for this purpose, and according to the laws of the country so far as these apply to it, and, under no pretext whatever, are they to be meddled with by any foreign country or by foreign judges.

15.—*Controul over the Catholic Ecclesiastical Funds.*

The funds of the Catholic churches, schools, and ecclesiastical foundations, are under the superintendence of the Vicar-Apostolic; he has, however, to furnish to the Department for Worship and Public Instruction, in virtue of the supervision which that department has over those funds of all communions—if required, every year, according to circumstances, sufficient information respecting the management of those funds.

The Department for Worship and Public Instruction has to be informed of every new foundation, in order to be sanctioned by the same; and of every accession, through donation or bequest, to some fund already existing.

An alienation of landed property or beneficial interest belonging to Catholic Churches, schools, and foundations, cannot take place without the consent of the King be previously obtained thereto through the medium of the Department for Worship and Public Instruction.

16.—*Royal Approval of New Ecclesiastical Regulations.*

New ecclesiastical regulations which entirely or partially have any bearing upon the State or its civil institutions in a political, economical, or financial point of view, more particularly the establishing of Catholic Churches, schools, and other ecclesiastical institutions, must not take place without the Royal consent thereto being given upon the representation of the Department for Worship and Public Instruction, after the necessity thereof has been ascertained by the said Department.

This also applies more particularly to the determining or altering of parochial boundaries, and again to every establishing of some new mode of worship which oversteps the limits of plain domestic devotion.

This regulation is also to be applied to the setting up or admitting in this country of religious communions and confraternities (*congregationes, sodalitates societates, sodalitia societates, confraternitates religiosæ*).

17.—*Continuation.*

The formation of new church-and-school communions will only be allowed if they can show they possess the requisite means for the maintenance of the ecclesiastical and school functionaries; for the restoration and preservation of churches and ecclesiastical buildings; and for the necessary expenses of divine service.

18.—*Power of the Church.*

The power of the Church—the power to regulate and direct the inner concerns of the Church—(*potestas ecclesiastica, jus episcopale, jus in sacra*) with respect to the Catholic Church, appertains to the Catholic ecclesiastical authorities.

The Department for Worship and Public Instruction has, however, the right to require also, if needful, any information respecting these matters, in order to fulfil the duty which the regal right of protection and supervision impose upon the same; and to take care that nothing take place which might prove injurious to the general ecclesiastical purpose, disturb the public peace, endanger individual rights, or violate the respect due to the State and other religious communities.

19.—*Royal Ordinances concerning Ecclesiastical Solemnities and Prayers.*

The King has the right to ordain also in Catholic Churches solemnities and prayers, and to determine the degree of observance thereof, without detriment, however, to the particular regulations of the Catholic divine service.

Whenever there are to be extraordinary general ecclesiastical solemnities in the Catholic Church, the King's consent must each time be obtained.

All such regulations are transmitted by the Department for Worship and Public Instruction, or in so far as they refer to obsequies and similar solemnities, concerning only the Catholic divine service at the Court of Dresden, by the Ministerial Department of the Royal House.

20.—*Where the Memorials addressed to the King from the Vicar-Apostolic, and the complaints against the same, have to be delivered.*

The Vicar-Apostolic has to send to the Department for Worship and Public Instruction his memorials and notices addressed to the King.

Excepted therefrom are the memorials and notices respecting such matters of the Catholic divine service at Court, which belong to the jurisdiction of the Department for the Royal House, where they have to be delivered, as also the complaints about the proceedings of ministerial departments, which are to be delivered to the King in a direct manner.

Complaints about the improper use of the ecclesiastical power exercised by the Vicar-Apostolic (§ 58 of the Charter) are to be delivered, in the first instance, to the Department for Worship and Public Instruction.

21.—*Binding force upon the Vicar-Apostolic of the Regulations made by the Department for Worship and Public Instruction.*

It is incumbent upon the Vicar-Apostolic to conform to the regulations issued by the Department for Worship and Public Instruction, in so far as they concern external matters of the Catholic communion and the ecclesiastics belonging thereto, without any restriction; but with regard to the internal ecclesiastical matters, he has to follow the particular regulations as stated above in § 18; or, if he should perhaps deem himself prevented by Catholic ecclesiastical injunctions, to submit the reasons thereof to the Ministerial Department, whereupon the latter will have to obtain the King's decision.

22.—*Assistance of a Catholic Ministerial Counsellor in the Department for Worship and Public Instruction.*

In order to afford to the members of the Catholic religion the surest guarantee for the impartiality of the Department for Worship and Public Instruction, there will always be appointed with the same a Catholic ministerial counsellor versed in the law, who, with regard to the principal resolutions in Catholic ecclesiastical and school matters, as also in the adjudications of the complaints made by Catholic ecclesiastical authorities, or against the same, in so far indeed as they belong to the competency of the Ministerial Department, is to be consulted, and who has the right, if he cannot agree, to appeal by representation to the King.

23.—*Revocation of differing Regulations.*

All previous regulations which differ from the present Regulation are hereby revoked.

24.—*Applicability to Upper Lusatia.*

The provisions of the present Regulation are also to be applied to Upper Lusatia, but with due regard to the peculiar circumstances in the constitution and competency of that province.

Inclosure 5 in No. 24.

Form of Oath of Investiture taken by Apostolic Vicars.

EGO, Josephus Dittrich, per Deum promitto et juro, negotia civilia, quae in vicariatu apostolico obveniunt et quae a Serenissimo Rege mihi commissa sunt vel fuerint secundum leges patrias et mandata Serenissimi Regis nec non meorum quoad ista negotia civilia praepositorum, quatenus haec mandata libertatem sanctae ecclesiae Catholicae §§ 32 et 57, constitutionis quarto mensis Septembris Anno 1831, promulgatae sancitam, intactam relinquunt, stricte executurum, et causas ad iudicium vicariatus apostolici delatas, nulla personarum ratione habita, aequo in omnes jure judicaturum, nec ab eo ulla de causa declinari me passurum.

Ita me Deus adjuvet et sanctum Dei Evangelium.

(Translation.)

I, JOSEPH DITTRICH, promise and swear by God, that I will strictly execute the civil duties attached to the office of Vicar-Apostolic, and which have been or may be committed to me by His Majesty the King, according to the laws of the country and the decrees of His Majesty, or my superiors, in respect of those civil duties, in so far as those decrees leave intact the liberty of the Holy Catholic Church, as sanctioned by the 32nd and 57th sections of the Constitution promulgated on the 4th September, 1841; and that I will decide all suits brought for the decision of the Apostolic-Vicariat, without respect of persons, and with equal justice to all, nor will I, on any account, fail in the same. So help me God and the Holy Gospel of God.

Inclosure 6 in No. 25.

Confirmation für den Decanum zu Budissin, Joseph Dittrich.

Wir, Friedrich August, von Gottes Gnaden, König von Sachsen u. bekennen öffentlich mit diesem Briefe und thun kund jedermanniglich: Nachdem uns die Würdigen und Wohlgelehrten, Unsere lieben Andächtigen und Getreuen Senior, Cantor, Scholasticus und Capitulares des Domstifts Sancti Petri zu Budissin in Unserm Markgraffthum Oberlausitz unterm 20ten d. Mts. unterthänigst zu vernehmen gegeben, wie sie nach Absterben Weiland Herrn Matthäus Kutschank's, den Hochwürdigen, in Gott Andächtigen, Unsern lieben Getreuen, Herrn Joseph Dittrich, zeitherigen Can. Cap., Vicariatsgerichtsrath und Hofprediger allhier, durch eine ordentliche Wahl, nach Ausweisung ihrer geistlichen Bullen, Statuten und Stifts-Privilegien, zu nurbesagten Stifts-Administratore und Decano Canonice erwählt hätten, dieselben auch, sowie Decanus selbst, allerseits demüthigst gebeten: Wir wollten uns solche Wahl gnädigst gefallen lassen, und selbige als Markgraf in der Oberlausitz confirmiren, und ihn zur Ablegung des schuldigen Homagii allermildest admittiren, daß Wir dieses unterthänigste Suchen in Gnaden angesehen und derowegen solche Wahl gnädigst beliebet, ratificirt und bestätigt haben; Thun solches auch hiermit wissentlich als Markgraf in Oberlausitz und regierender Landesfürst; Meinen, sehen und wollen, daß er, Joseph Dittrich, nun und hinfüro angeregtes Stift zu Budissin, verwalten, alle desselben Unterthanen und Zugehörige, zu des Stiftes Nutzen und Aufnehmen, seinem besten Verstande und Vermögen nach, regieren, die geistliche Disciplin fleißig in Acht nehmen, und Alles dasjenige, was einem getreuen Vorsteher, laut der hergebrachten Pflicht, zugestehet und gebühret, auch zur Erhaltung des Stifts Recht und Gerechtigkeit nützlich und vonnöthen sein wird, sich treulich angelegen sein

lassen, in gebührende Obacht nehmen, und aufs beste befördern solle; Gebieten hierauf allen und jeden Unsern nachgesetzten Obergkeiten und Unterthanen, wess Würden, Standes oder Wesens die seien, insonderheit des Stifts Budissin Capitularibus und Unterthanen, hiermit gnädigst und festiglich, daß sie mehrernannten Joseph Dittrich für einen ordentlich erwählten und von Uns confirmirten Decanum mehrgedachten Stifts erkennen, halten und ehren, ihm, als ihrem respective vorgesezten ordentlichen Haupte obberührter Maassen allen schuldigen Respect, Ehrerbietung, und Gehorsam leisten, dies und kein andres thun, bei Vermeidung Unserer schweren Strafe und Ungnade.

Zu Urkund dessen haben Wir diesen Brief mit eigenen Händen unterschrieben und das Königl. Insiegel hier anhängen lassen.

Gegeben zu Dresden, am 24ten Febr. 1845.

(L. S.)

Friedrich August.

Carl August Wilhelm Eduard v. Wintersheim.

(Translation.)

Form of Confirmation of the Appointment of the Dean at Budissin.

WE, Frederick Augustus, by the Grace of God, King of Saxony, publicly acknowledge and make known by these letters, that is to say: It having been notified to us by the worthy and learned our pious in the Lord and well-beloved loyal subjects, the Senior Cantor Scholasticus and Capitulares of the Cathedral Chapter of St. Peter at Budissin, in our Margraviate of Upper Lusatia, that on the decease of the late Rev. Matthæus Kutschauk, they have chosen, by regular election, in accordance with their ecclesiastical bulls, statutes, and collegiate privileges, the highly-venerable, pious in the Lord, our beloved faithful M. Joseph Dittrich, hitherto Can. Cap., Councillor of the Vicarial Court, and Court Preacher here, to be Administrator of the Chapter and Decanus Canonicus; and the same, as well as the newly-elected Dean, having humbly petitioned us, that, as Margrave of Upper Lusatia, we should sanction this election and confirm the same; and that we should graciously admit him to the necessary act of homage, we acknowledge and declare that we have taken this petition into gracious consideration, and in respect of the same have sanctioned, ratified, and confirmed the said election: and that we do this consciously, as Margrave in Upper Lusatia and reigning Sovereign; and that we decide, constitute, and will that the said Joseph Dittrich shall now and henceforward administer the Chapter at Budissin; shall govern all those subject and appertaining to the said Chapter, in the interests of the same, according to his best ability and capacity; shall sedulously attend to the ecclesiastical discipline; shall faithfully attend to, observe, and promote everything to which a faithful superintendent, in accordance to customary duty, is bound and entitled, and which shall be necessary or expedient for the maintenance of the rights and jurisdiction of the Chapter. We further graciously and earnestly command all authorities and subjects under us, of whatsoever dignity, station, or degree, and more particularly the Capitulars and subjects of the Chapter of Budissin, that they shall acknowledge, regard, and honour the before-named Joseph Dittrich, as the regularly-elected and by us confirmed Dean of the aforesaid Chapter; and that they shall pay to him, as their regularly-constituted chief, all due respect, reverence and obedience, and to do this and not otherwise, under the penalty of severe punishment and our displeasure.

In witness whereof we have signed the present letter with our own hand, and have caused the Royal seal to be affixed thereto.

Done at Dresden, the 24th February, 1845.

(Signed)

FREDERICK AUGUSTUS.

(L.S.)

CARL AUGUST WILHELM EDUARD V. WINTERSHEIM.

Inclosure 7 in No. 25.

Form of Oath of Homage and Vassalage taken by the Dean of Bautzen.

EGO, Josephus Dittrich, Decanus Budissinensis, promitto et juro quod Augustissimo Principi ac Domino, Domino Friderico Augusto Regi Saxoniae, etc. Domino meo clementissimo, tanquam Marchioni hereditario superioris Lusatiae, et Regiae Suae Majestatis heredibus ac successoribus, debitam obedientiam praestare, devotus et constans manere, auctoritatem et prosperitatem Suae Regiae Majestatis promovere, contra eandem nihil vel per me vel per meos, aut alios tentare, neque ut alii tentent permittere volo, et si forsitan alii fecerint et mihi vel nostratibus universis vel singulis, innotuerit, summo studio praccavebo et Majestati Suae statim absque omni metu palam faciam.

Regiam Suam Majestatem ejusque heredes ac successores pro Dominis meis hereditariis et feudalibus agnoscam, honorabo et habebō; leges patrias Regni Saxoniae et Marchionatus Lusatiae, nec non Constitutionem quarto mensis Septembris anni MDCCCXXXI promulgatam stricte observabo, ac tandem omnia, quaecumque me facturum promisi, salvis juribus ac privilegiis Capituli Budissinensis a Serenissimo Rege ejusque praedecessoribus confirmatis, ut fidem morigerum que subditum hereditarium, nec non ratione feudorum feudatarium clientem decet, praestabo, idque per Deum et Sanctum Evangelium.

(Translation.)

I, JOSEPH DITTRICH, Dean of Bautzen, promise and swear that I will render due obedience to the most august Prince and Lord Frederick Augustus, King of Saxony, &c., my most benignant Sovereign, as the hereditary Marquis of Upper Lusatia, and to His Majesty's heirs and successors; that I will remain loyal and faithful; that I will promote the authority and prosperity of His Majesty; that I will not attempt any evil against him, either by me or mine or by others, neither will I allow others to attempt it; and if peradventure others should do it, and it should become known to me, or to all, or any of us, I will with the utmost care prevent it, and will, without any fear, immediately make it known to His Majesty.

I will recognize, I will honour, and I will hold His Majesty, his heirs and successors, as my hereditary and feudal Sovereigns; I will strictly observe the laws of the Kingdom of Saxony and of the Marquisate of Lusatia, as well as the Constitution promulgated on the 4th of the month of September, in the year 1831; and finally, all things whatsoever I have promised to perform, saving the rights and privileges of the Chapter of Bautzen, confirmed by His Majesty and his predecessors, I will discharge as it behoves a faithful and obedient hereditary subject and a feudal vassal; and this by God and the Holy Gospel.

Inclosure 8 in No. 25.

Law of November 1, 1836, concerning Mixed Marriages.

No. 70) G e s e t z,

die Ehen unter Personen evangelischen und katholischen Glaubensbekenntnisses
und die religiöse Erziehung der von Aeltern solcher verschiedener
Confessionen erzeugten Kinder betreffend;

vom 1sten November 1836.

Wir, Friedrich August, von Gottes Gnaden König von Sachsen u. u. u. haben auf den Antrag der getreuen Stände in den Schriften vom 22sten Mai 1830. und 29sten April 1831. die hinsichtlich der Eingehung der Ehen unter Personen evangelischen und katholischen Glaubensbekenntnisses, sowohl der religiösen Erziehung der von Aeltern dieses verschiedenen Glaubensbekenntnisses erzeugten Kinder bestehenden Grundsätze einer Prüfung unterwerfen lassen, und in deren Folge, mit Aufhebung der in §. 47. 50. 51. 52. und 55. des Mandats, die Ausübung der katholisch-geistlichen Gerichtsbarkeit in den hiesigen Kreislanden und die Grundsätze zu Regulirung der gegenseitigen Verhältnisse der katholischen und evangelischen Glaubensgenossen betreffend, vom 19ten Februar 1827., ingleichen in §. 11. des Mandats, den Uebertritt von einer christlichen Confession zur anderen betreffend, vom 20sten Februar 1827, enthaltenen Bestimmungen, welche mit Bekanntmachung gegenwärtigen Gesetzes außer Kraft treten, unter Zustimmung Unserer getreuen Stände, Folgendes festgesetzt:

§. 1. Die Competenz der Pfarodie in Ansehung der Trauung solcher Verlobten, deren ein Theil zur katholischen, der andere zur evangelischen Confession sich bekennt, wird durch die Confession der Braut bestimmt. Doch steht den Verlobten frei, gegen Entrichtung der gewöhnlichen Gebühren an die Geistlichkeit der Braut und ein von dieser ausgestellttes Zeugnis, daß ihr kein Ehehinderniß bekannt sei, sich von einem anderen Pfarrer der Confession der Braut, oder von einem Pfarrer der Confession des Bräutigams trauen zu lassen. Wollen dieselben in beiden Kirchen sich einsegnen lassen, so ist die erste Einsegnung nothwendig von einem Pfarrer der Confession der Braut zu vollziehen, und als die eigentliche Trauung, mit welcher die rechtlichen Wirkungen der Ehe beginnen, zu betrachten.

§. 2. Von jedem Pfarrer, welcher das Aufgebot zu veranstalten hat, ist vorher sorgfältig zu untersuchen, ob nicht nach landesgesetzlichen Vorschriften der Vollziehung der Ehe ein rechtliches Hinderniß entgegenstehe: und es darf, bevor nicht solches beseitiget, oder in dispensablen Fällen von dem Theile, auf dessen Seite es sich findet, die Dispensation seiner geistlichen Behörde glaubhaft beigebracht worden, mit dem Aufgebote nicht verfahren werden.

§. 3. Ein Widerspruch gegen die Trauung verlobter Personen verschiedener Confessionen ist in der Regel bei dem Pfarrer der Braut anzubringen, welcher hiervon dem Pfarrer des Bräutigams Nachricht zu geben hat. Wird aber dennoch ein solcher Widerspruch bei dem Pfarrer des Bräutigams angebracht, so hat derselbe dem Pfarrer der Braut ungesäumt solches bekannt zu machen, und an letzteren die den Widerspruch enthaltende Schrift beßuß der erforderlichen Berichtserstattung abzugeben.

§. 4. Sollte der katholische Pfarrer, wenn ihm nach §. 1. die Trauung gebührt, ohne einen nach den Landesgesetzen statthafter Grund Aufgebot oder Trauung verweigern, so soll das Aufgebot auf Seiten des katholischen Theils in der evangelischen Kirche seines Wohnortes, oder in der nächsten evangelischen Kirche, die Trauung aber ebenfalls von einem protestantischen Geistlichen, auch ohne die gewöhnlichen Dimissoriales des Pfarrers des katholischen Theils, und ohne daß es der Bezahlung der Stolgebühren an diesen bedarf, bewirkt, und die Ermächtigung hierzu auf Ansuchen aus dem Ministerio des Cultus erteilt werden.

§. 5. Die Taufe der in einer gemischten Ehe erzeugten Kinder stehet dem Geistlichen der Confession des Vaters, und nur dann, wenn nach einer gütigen Uebereinkunft der Aeltern das Kind in der Confession der Mutter erzogen werden soll, dem Geistlichen dieser Confession zu.

§. 6. Die aus gemischten Ehen erzeugten Kinder sind in der Regel in der Confession des Vaters zu erziehen.

Es ist jedoch den Aeltern gestattet, durch freie Uebereinkunft, unter den im folgenden §. vorgeschriebenen Erfordernissen, hierüber unter sich etwas Anderes festzusetzen.

§. 7. Eine solche Uebereinkunft der Brautleute oder Ehegatten über die Confession

der Kinder ist an eine Einwilligung der Aeltern, Vormünder, oder Geschlechtscuratoren nicht gebunden; es sind jedoch hierbei theils die allgemeinen Bedingungen eines rechtsbeständigen Vertrags, theils auch folgende Formen zu beobachten:

a.) die Erklärung muß vor dem ordentlichen Richter des Bräutigams oder Ehemanns, und insofern derselbe ein Ausländer ist, und im Inlande ein bestimmtes Wohnsitzrecht noch nicht erlangt hat, vor dem competenten Richter der Braut,

b.) an Gerichtsstelle,

c.) von beiden Theilen, welche deshalb persönlich erscheinen müssen, und

d.) ohne Zulassung eines Geistlichen oder anderer Personen,

abgegeben und über dieselbe ein legales Protocoll in gesetzlicher Form aufgenommen werden. Der Richter hat hierbei aller Einwirkung auf die Willenserklärung der Paarsceenten sich zu enthalten, wodurch jedoch nicht ausgeschlossen ist, daß derselbe über die Willensfreiheit sich durch Befragen der Paarsceenten Gewißheit verschaffen, auch dieselben auf die gesetzlichen Folgen solcher Verträge aufmerksam machen könne.

§. 8. Dergleichen Vereinigungen können sowohl vor Eingehung der Ehe, als während derselben geschlossen, auch mit Beobachtung der §. 7. enthaltenen Vorschriften wieder aufgehoben oder verändert werden. Auf die religiöse Erziehung derjenigen Kinder aber, welche das sechste Jahr bereits erfüllt haben, ist der Abschluß, die Aufhebung oder Veränderung solcher Vereinigungen ohne Einfluß.

§. 9. Auf die zur Zeit der Bekanntmachung dieses Gesetzes schon bestehenden gemischten Ehen haben vorstehende Bestimmungen gleichfalls Anwendung, insoweit nicht vorher von den Aeltern der in solcher Ehe erzeugten Kinder bereits ein Anderes ausdrücklich oder stillschweigend vereinbart oder bestimmt worden.

Ist bei dergleichen Ehen nur ein Theil der Aeltern noch am Leben, so entscheidet im Zweifelsfalle die Bestimmung des Ueberlebenden.

Sind beide Theile verstorben, so wird das Kind solchenfalls in der bisherigen Confession forterzogen, oder wenn der Religionsunterricht noch nicht begonnen hat, in der Confession des Vaters.

Bei Aeltern, welche sich erst künftig in das Königreich Sachsen wenden, wird dasjenige zur Anwendung gebracht, was die gesetzliche Verfassung des Landes, wo die Ehe geschlossen worden, hierüber mit sich bringt, dafern sie nicht nach den Bestimmungen dieses Gesetzes (§. 7. und 8.) ein Anderes unter sich festsetzen.

§. 10. Uneheliche Kinder werden in der Regel in der Kirche der Mutter getauft und in deren Confession erzogen. Sollte aber der, einer anderen Confession angehörende, Vater die Erziehung des von ihm außer der Ehe erzeugten Kindes selbst übernehmen, und dasselbe in seiner Confession erziehen wollen, so ist ihm letzteres zwar gestattet, er bedarf aber dazu der Genehmigung der Mutter des unehelichen Kindes, oder, wenn diese verstorben seyn sollte, der mütterlichen Großältern, sowie des Vormundes und der obervormundschaftlichen Behörde.

§. 11. Uneheliche Kinder, welche durch nachfolgende Ehe legitimirt werden, ingleichen die durch einen landesherrlichen Befehl mit der Wirkung des Allodial-Erbfolgerechtis in das Vermögen des Vaters legitimirten, sind auch in dieser Beziehung den ehelichen gleich zu achten. Nur ist, was die Legitimirten der letzteren Art betrifft, hierzu erforderlich, daß die an der Erziehung derselben noch thätigen Antheil nehmende Mutter in die Legitimation mit der bezeichneten Wirkung gewilligt habe.

Bräutkinder werden, wenn die Schließung der Ehe durch Ableben des einen oder anderen Verlobten verhindert wird, und gültige Verträge darüber unter ihnen nicht bereits geschlossen worden sind, nach der Confession des Ueberlebenden erzogen.

Sind Beide gestorben, und gültige Verträge darüber nicht vorhanden, so entscheidet die Confession der Mutter. Treten aber andere Hindernisse der Vollziehung der Ehe entgegen, so kommt die Bestimmung §. 10. in Anwendung.

§. 12. Hört eine Ehe durch Uebertritt des einen Theils auf, eine gemischte zu seyn, so haben die Aeltern die Freiheit, ihre Kinder in der ihnen nun gemeinschaftlichen Confession zu erziehen, auch wenn dieselben bisher einen andern Religionsunterricht erhalten hätten.

§. 13. Wenn hingegen durch einseitigen Uebertritt des einen Theils eine Ehe erst zu einer gemischten wird, so ist dieser Uebertritt auf die bis dahin gebornen Kinder ohne allen Einfluß, und es darf auch durch Uebereinkunft nichts hierinnen abgeändert werden.

Auch die später gebornen Kinder werden in derjenigen Confession erzogen, welcher beide Aeltern vorher angehört haben, insofern dieselben nicht nach §. 7. eine Uebereinkunft unter sich treffen.

§. 14. Ehescheidung kann an obigen Bestimmungen nichts ändern, sondern

es ist im Zweifel so zu entscheiden, wie bei Fortdauer der Ehe entschieden worden seyn würde.

§. 15. Andern Personen, als den Aeltern selbst, soll es nicht freistehen, über das Glaubensbekenntniß der Kinder eine von den gesetzlichen Bestimmungen abweichende Aenderung zu treffen.

§. 16. Sinegen Adoptivältern, welche durch eine förmliche Annahme an Kindes Statt dem Kinde alle Rechte eines leiblichen ertheilt haben, steht es frei, dasselbe auch in ihrer Confession zu erziehen, sofern die noch lebenden leiblichen Aeltern einwilligen, oder nach deren Tode ein rechtbeständiger Vertrag (§. 7. und 8.), in welchem dieselben über die Confession ihrer Kinder bereits verfügt haben, nicht besteht.

§. 17. Ist ein solcher Vertrag jedoch nicht vorhanden, und kann solchen Kindern, von welchen in diesem Gesetze gehandelt wird, Religionsunterricht in der Confession, die das Gesetz vorschreibt, um deswillen nicht ertheilt werden, weil hierzu im Orte keine Gelegenheit vorhanden ist, so hat die Obrigkeit auf Verlangen derer, welchen die Sorge für die Erziehung obliegt, zu gestatten, daß gedachte Kinder in einer anderen als der gesetzlich bestimmten Confession durch Theilnahme an dem Religionsunterrichte in der Ortschule unterwiesen werden.

§. 18. In den Fällen, von welchen oben §. 9. 10. 11. 12. 16. und 17. gehandelt wird, findet hinsichtlich derjenigen Kinder, welche einmal das zehnte Jahr ihres Alters vollendet, und bis dahin gleichmäßig in der einen oder anderen Confession Unterricht erhalten haben, ein Wechsel der Confession nicht mehr statt.

§. 19. Streitigkeiten, welche über die religiöse Erziehung der Kinder von Aeltern verschiedenen Glaubensbekenntnisses entstehen, sind vor der ordentlichen Ortsobrigkeit zu entscheiden. Auch haben die Obrigkeiten dafür, daß diesem Gesetze in allen Punkten nachgegangen werde, von Amtswegen Sorge zu tragen, auch die Geistlichen und Schullehrer sich dahin mit ihren etwaigen Anfragen und Anträgen zu wenden.

§. 20. Wer einen in gemischter Ehe lebenden Ehegatten durch Versprechungen, Drohungen oder Herabwürdigung der einen Confession zum Abschluß einer Uebereinkunft mit dem andern Ehegatten über die ihren Kindern zu gebende Erziehung in einer andern Confession verleitet, wird von seiner competenten Obrigkeit das erste Mal mit fünfzig Thaler Geldbuße oder drei Monaten Gefängniß, und im Wiederholungsfall noch härter, ein Geistlicher aber, der sich dessen schuldig macht, mit Dienstentsetzung bestraft.

Urkundlich haben Wir dieses Gesetz eigenhändig vollzogen und das Königliche Siegel beidrucken lassen.

Gegeben zu Dresden, den 1ten November 1836.

(L.S.) Friedrich August.
Hans Georg von Carlowitz.

(Translation.)

(No. 70.)—Law concerning marriages between persons of the Evangelical and the Catholic Faith, and concerning the religious education of the children of parents professing such different creeds.—November 1, 1836.

WE, Frederick-Augustus, by the grace of God, King of Saxony, &c., have, on the petition of our faithful States in their addresses of the 22nd of May, 1830, and the 29th of April, 1831, caused to be examined the existing principles relating to the contracting of marriages between persons of the Evangelical and persons of the Catholic faith, as well as those relating to the religious education of children born of such mixed marriages, and revoking the determination contained in § 47, 50, 51, 52, and 55 of the Ordinance of the 19th of February, 1827, concerning the practice of Catholic ecclesiastical jurisdiction in these districts, and the principles regulating the reciprocal relations of those of the Catholic and Evangelical faith; and revoking likewise § 11 of the Ordinance of the 20th of February, 1827, relative to the secession from one Christian denomination to the other, which ordinances shall, on the publication of the present law, become of no effect, have, with the consent of our faithful States, determined as follows:

§ 1. The competency of the parochial authority with respect to the marriage of such persons as shall belong, the one to the Catholic, the other to the Evangelical faith, is determined by the faith of the bride.

The parties may, however, on payment of the usual fees to the clergy of the bride, and on a certificate given by the latter that they are not aware of any impediment, be married by any other clergyman of the bride's faith, or by a clergyman of the faith of the bridegroom. If the parties wish to be married in both churches, the first ceremony must necessarily be performed by a clergyman of the faith of the bride, and will have to be considered as the real wedding, from which the legal effect of the marriage dates.

§ 2. Every clergyman who has to publish the bans in church, is bound previously carefully to examine whether any legal impediment exists, according to the laws of the land, to the contraction of such marriage; and until such impediment shall have been removed, or in cases where dispensation is necessary, the dispensation of the ecclesiastical authorities of the party who may require it shall have been truly obtained, the publication of the bans shall not be proceeded with.

§ 3. Any objection to the marriage of parties of different faith who are engaged to each other, must properly be made to the clergyman of the bride, who will have to communicate the same to the clergyman of the bridegroom. Should, however, such an objection be notwithstanding preferred before the clergyman of the bridegroom, the latter will have to communicate the same without delay to the clergyman of the bride, and will have to deliver to the latter the writing containing the objection, for the purpose of making the requisite report.

§ 4. Should the Catholic clergyman in those cases in which in conformity with § 1 the marriage is to be solemnized by him, refuse to publish the bans, or to marry them without having any just ground, in accordance with the laws of the land for such refusal, the publication of the bans on the part of the Catholic party shall take place in the Evangelical church of his place of residence, or in the nearest Evangelical church, and the marriage shall likewise be performed by the Evangelical clergyman, without the usual letters demissory of the clergyman of the Catholic party, and without payment to the same of any fees; and the authority for such proceeding will be granted on application to the Ministry of Public Worship.

§ 5. The baptism of children begotten in mixed marriages belongs to the clergyman of the faith of the father, and only to the clergyman of the faith of the mother when the child is, in accordance with a formal agreement between the parents, to be educated in the faith of the mother.

§ 6. Children of mixed marriages are, as a rule, to be brought up in the faith of the father. It is however permitted to the parents by free agreement under the limitations specified in the following section, to make a different arrangement.

§ 7. Such an agreement on the part of the bride and bridegroom, or the married parties, is not to depend on the consent of parents, guardians, or trustees. In concluding it, however, the general conditions of a legal contract, as well as the following forms, must be observed:

a. The declaration must be made before the ordinary magistrate of the bridegroom or husband, and should he be a foreigner, and not have acquired a fixed residence in this country, before the competent magistrate of the bride.

b. It must be made in a court of law.

c. It must be made by both parties appearing in person.

d. No clergyman or other person may be present, and a legal protocol must be drawn up in form of law with respect to it. The magistrate must abstain from exercising any influence over the determination expressed by the contracting parties, but he is not prohibited from obtaining conviction of the freedom of will exercised by the contracting parties, by questioning them, or from drawing their attention to the legal consequences of such contracts.

§ 8. Such agreements may be concluded as well before the contraction of marriage as during its course, and may again be annulled or altered in the form specified in § 7. But as regards the religious education of

children of above six years old, the conclusion, the abolition, or the alteration of such agreements shall have no effect.

§ 9. The preceding Regulations are equally applicable to mixed marriages already existing at the time of the publication of the present Law, in so far as nothing different has been previously either expressly or *sub silentio* agreed upon and arranged by the parents of children born of such wedlock.

Should only one of the parents of such marriage remain alive, the decision of the survivor decides questionable cases.

If both parties should be dead the child will continue to be educated in the creed in which it has been educated, and should religious instruction not have commenced, in the religion of the father.

In the cases of parents who shall in future become domiciliated in the Kingdom of Saxony, the regulations of the law of the country where the marriage shall have been contracted, will be observed, unless they should, in accordance with the provisions of the present Law (§§ 7 and 8), agree on a different arrangement.

§ 10. Illegitimate children shall, as a rule, be baptized in the Church to which the mother belongs, and be brought up in her faith. Should, however, the father, belonging to a different creed, undertake the education of his illegitimate child, and wish to have it brought up in his faith, such will be permitted, provided he obtains the consent of the mother, or in case of her death, of the grand parents on the maternal side; as well as of the guardian, and of the authority charged with the guardianship of children.

§ 11. Illegitimate children, who have by subsequent marriage become legitimized, and such as have by grant of the Sovereign been put into possession of the property of the father, by virtue of the allodial law of succession, are to be considered likewise in this regard on the same footing as legally-born children. But in the latter case it is necessary that the mother who has taken an active part in the education of the child shall consent to the legitimizing according to the law specified.

Children of parties engaged to each other shall, if the marriage has been prevented by the death of the one or the other, and no valid arrangements shall have been previously made, be brought up in the creed of the survivor.

If both are dead, and no valid agreements have been made, the question is decided in accordance with the creed of the mother. Should, however, other impediments to the completion of the marriage occur, in such case the provisions of § 10 will be applied.

§ 12. Whenever a marriage shall by the conversion of one party, cease to be a mixed one, the parents shall be at liberty to educate their children in their common belief, even if they should previously have received other religious instruction.

§ 13. When, on the contrary, a marriage, owing to the conversion of one party becomes a mixed one, such secession is without any effect on children already born, nor may any changes be made by agreement with respect to them.

The later born children, likewise, are to be brought up in the faith to which both parents belonged, unless the latter shall come to an agreement to the contrary, in conformity with § 7.

§ 14. Divorce will make no difference in the above Regulations; and in all doubtful cases the decision will be the same as it would have been had the marriage continued.

§ 15. No other persons, excepting the parents, shall have the power to effect a change as regards the creed of the children, at variance with the legal provisions.

§ 16. Adoptive parents, who by a formal adoption in child's place, have accorded to the child all the rights of a natural-born child, may educate the child in their own faith, provided the living real parents consent, or they being dead, no legal contract (in accordance with §§ 7 and 8) settling the creed of their children shall exist.

§ 17. Should no such contract exist, and should it not be possible to impart to the children of whom mention is made in the present Law,

religious instruction in the creed prescribed by law, because no opportunity of so doing exist in the locality, the magistracy, on the demand of those who are charged with the care of the education of the child, is bound to allow that such children shall receive instruction in another than the legally fixed creed, by participating in the religious instruction of the local school.

§ 18. In the cases treated of in §§ 9, 10, 11, 12, 16, and 17, no change of creed is permitted as regards children who have completed their tenth year, and shall till that period have received constant instruction in one or the other creed.

§ 19. Disputes which shall arise as to the religious instruction of children of parents of different persuasions, shall be decided by the ordinary local magistracy. The magistracy will take care that these laws shall in all their provisions be observed, and the clergy and schoolmaster will address themselves to such magistracy for information, and with petitions.

§ 20. Whoever shall induce one party to a mixed marriage, by promises, threats, or the depreciation of his creed, to enter into an arrangement with the other party to such marriage as to the education of their children in a different faith, shall be subjected by the competent authority for the first offence to a penalty of fifty dollars, or to three months' imprisonment, and in case of a repetition of the offence, to a severer punishment. Should a clergyman commit this offence, he will be punished by dismissal from his cure.

In witness whereof we have signed the present Law with our own hand, and have caused it to be furnished with the seal of our arms.

Given at Dresden, November 1, 1836.

(Signed) (L.S.) **FREDERIC AUGUSTUS.**
(Countersigned) **HANS GEORGE VON CARLOWITZ.**

SICILY.

No. 26.

The Hon. W. Temple to Viscount Palmerston.—(Received February 8.)

My Lord,

Naples, January 21, 1851.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 12th December last, instructing me to transmit to you a copy of any Concordat or equivalent arrangement between the Neapolitan Government and the Court of Rome, for the government of the Roman Catholic Church in this country ; and to report to your Lordship as to the course pursued in the Neapolitan territories with regard to the appointment of Roman Catholic bishops; and with regard to the publication of Papal bulls and rescripts, and whether such bulls and rescripts may be published without the previous sanction and knowledge of the Neapolitan Government, and if not in what way the consent or sanction of the Government is obtained.

In obedience, therefore, to the above instructions, I have the honour to transmitting herewith to your Lordship a printed copy of the Concordat concluded between the Neapolitan Government and the Court of Rome, on the 16th of February, 1818, drawn up both in the Latin and Italian languages, to which are added all the Acts emanating therefrom after its publication, together with the documents to which it refers, including the copy of the Bull of Benedict XIII, of the 3rd September, 1728, relating to the privileges of the tribunal of the Monarchy of Sicily.

I also inclose a translation of the Royal Decree regulating the mode in which the Royal exequatur is to be affixed to all communications emanating from the Court of Rome.

A copy of the Concordat was also transmitted to the Foreign Office by this Legation in a despatch of the 20th of March, 1818.

With respect to the appointment of bishops in the Kingdom of the Two Sicilies, your Lordship will see that by the XXVIIIth Article of the Concordat, the King has the absolute and undoubted right to appoint all the bishops and archbishops in his dominions on both sides of the Straits, and the course pursued on such occasions is as follows.

The King having decided upon the person whom he intends to appoint to the see, communicates his name to the Court of Rome through the Minister of Foreign Affairs, and the person selected is informed thereof, that he may proceed to Rome to be consecrated by the Pope.

His Holiness, after having fulfilled the ecclesiastical formalities required for the consecration of the bishop-elect, causes the bull to be delivered to him, that he may on his return present it to the person who is delegated by the King to affix to it the Royal exequatur, without which the bull would not be valid nor could it be carried into effect.

With regard to the publication of Papal bulls and rescripts, no communication of any kind whatever coming from Rome can be published or acted upon in any part of these dominions unless it is previously sanctioned by the King and has had the Royal exequatur duly affixed to it ; and indeed the Royal sanction is indispensable even in matters of a purely ecclesiastical character, and in those which relate to private affairs, such

dispensations for the marriage of persons related within the canonical degrees, or even permission to have mass said in private houses.

Any person publishing such documents without the Royal sanction is liable to be punished with fine and imprisonment.

The exequatur may in all cases be refused by the King, who is not bound to specify the reason of his refusal. Indeed I have been informed that during the present reign, the King has on two occasions refused to grant his Royal exequatur to the bull granted by the Pope to the bishop elect on his return from Rome, after he had been consecrated in consequence of His Majesty's nomination; the King having been led to change his opinion as to the fitness of the person to hold the situation. After much discussion, these bishops renounced their claims to the Neapolitan sees; and as they could not be divested of their episcopal character, they were appointed by the Pope to bishoprics *in partibus infidelium*.

Formerly, the Royal permission was also required to enable Neapolitan subjects, whether ecclesiastical or lay, to address letters to the Court of Rome. The laws and decrees, however, relating to this permission (*liceat scribere*) were annulled by Article XXIII of the Concordat; and all persons therefore may now freely address letters to the Court of Rome on ecclesiastical subjects, although any answers which they may receive must be submitted to the King before they can be acted upon.

The duty of affixing the Royal exequatur to communications from the See of Rome was delegated by the King, by the Royal Decree of the 6th of April, 1818, to the Supreme Council of Chancery, but that Court having been suppressed, the King appoints two members of the Council of State, one for Naples and one for Sicily, to whom that duty is delegated.

A Convention was drawn up between the present King and the Pope, dated the 16th of April, 1838, on the occasion of a visit of the former to Rome in that year.

It relates to the treatment of ecclesiastics under accusation or trial for criminal and other offences.

I have, &c.

(Signed) W. TEMPLE.

Inclosure 1 in No. 26.

Concordat between Naples and the Court of Rome, of February 16, 1818.

Pius Episcopus Servus Servorum Dei ad Perpetuam Rei Memoriam.

IN supremo Apostolicæ dignitatis culmine meritis licet imparibus constituti, ubi primum, pacatis, rebus datum Nobis benignitate Dei iterum fuit ex hac Fidei ac Religionis arce in universam Ecclesiam oculos nostros intendere, illico circumspeximus quot calamitates, et quam acerba vulnera Christianæ Reipublicæ tanta illa perturbatio superiorum temporum intulisset. Ingenti sane moerore correpti, gravissimisque hisce damnis commoti, crebra ex imo corde suspiria, et uberes ex oculis lacrymas fundere coacti fuimus, tum vero in bonorum omnium largitore Deo, qui sperantes in Se confundi non patitur, Ecclesiæque suæ perpetuo Sese adfuturum spopondit, spem nostram firmiter collocantes, paratique omnem pro salute commissarum Nobis Christi ovium subire laborem, in aegrotas afflictasque res Ecclesiæ, quidquid in Nobis virium atque consilii esset conferendum esse decrevimus.

Et quamquam universum dominicum Gregem sine intermissione sollicitudo Nostra complectitur, Ecclesiæ tamen finitimi Siciliarum Regni primæ sese Nobis ante oculos obtulerunt, earumque necessitates et damna, quibus jamdiu afflictabantur, postremis hisce annis vehementer adaucta, et publicarum rerum conversione multiplicata, paternæ charitatis nostræ viscera tetigerunt, ac peculiario quodam jure sollicitiores Apostolici muneris curas sibi vindicare sunt visæ. Quas quidem curas cum a fel. rec. Pio PP. VI prædecessore nostro, tum a

Nobis ipsis vel ante praeteritas perturbationes illius regni susceptas, ut copioso tandem stabilique cum fructu possemus impendere, charissimi in Christo filii nostri Ferdinandi Regni utriusque Siciliae Regis illustris spectata religio, ac pietas magnopere profuit. Ipse enim probe considerans, regiam potestatem non solum ad Mundi regimen, sed maxime ad Ecclesiae praesidium esse collatam, semel ac veterem citra Pharus Ditionis suae partem feliciter recuperavit, commune Religionis, et animarum periculum Nobiscum miseratus, novam cum hac Sancta Apostolica Sede inire Conventionem, qua perturbatis in Regno Ecclesiae rebus optata cum firmitate consuleretur, intenso studio desideravit, atque ut adeo salutari necessarioque operi manus illico admooveretur prompta Nobiscum voluntate conspiravit.

Itaque ut Nostra, ac piissimi Regis desideria expleremus, statim Ven. Fratrem Nostrum Didacum Innicum Episcopum Praenestinum S. R. E. Cardinalem Caracciolo nuncupatum cum necessariis facultatibus, et instructionibus deputavimus, eique postea Presbyterum Romanum Philippum Guidi, nuper vita functum, adjunximus, ut cum regiis Ministris Neapoli ejus negotii gratia pertractarent. Actum diu est, summoque utrinque cum studio ac diligentia; cum tamen ad eam, quae ex utraque parte expetebatur, conciliationem perveniri non potuerit, idem Ferdinandus Rex postulavit a Nobis, ut Dilectum Filium Nostrum Herculem S. R. E. Diaconum Cardinalem Consalvi nuncupatum a secretis nostri Status deputare vellemus, qui una cum altero ex praecipuis Regis Administris rem conferret, atque conjunctim darent operam difficultatibus removendis, quae usque ad eam diem impedimento fuerant quominus tractatio suscepta optatum ad exitum perduceretur. Itaque Nos praedictum Cardinalem sine ulla mora Terracinam civitatem nostram misimus, quo cum ex parte Regis dilectus filius Eques Aloysius de Medicis Majestatis suae Consiliarius, a secretis Status, ac regio Aerario Praefectus eodem tempore se contulisset, post assiduam plurium dierum tractationem ea in Urbe habitam, res tandem, favente Misericordiarum Patre, inter utrosque variis articulis confecta est, iisque tam noster, quam regius Plenipotentarius die 16 Februarii hujus anni subscripserunt. Quibus articulis ad Nos delatis, eos diligentissime expendimus, auditoque consilio selectae Congregationis nonnullorum Venerabilium Fratrum Nostrorum suprema approbatione Nostra dignos judicavimus.

Initae autem Conventionis tenor est qui sequitur.

Conventio inter Sanctissimum Dominum Pium VII. Summum Pontificem, et Majestatem suam Ferdinandum I. Regni Utriusque Siciliae Regem.

In Nomine Sanctissimae Trinitatis.

SANCTITAS Sua Summus Pontifex Pius VII, et Majestas Sua Ferdinandus I, regni utriusque Siciliae Rex, pari studio consulere cupientes malis, quae in res ecclesiasticas in regno irrepserunt, collatis consiliis novam inire Conventionem decreverunt.

Hinc Sanctitas Sua Summus Pontifex Pius VII in suum Plenipotentiarium nominavit Eminentissimum Dominum Herculem Consalvi S. R. E. Cardinalem Diaconum S. Mariae ad Martyres suum a secretis Status:

Et Majestas Sua Ferdinandus I. regni utriusque Siciliae Rex Excellentissimum Dominum Aloysium de Medicis regii ordinis S. Januarii Equitem, nec non regiorum ordinum S. Ferdinandi del Merito, Constantiniani S. Georgii, atque imperialis S. Stephani de Hungaria Magnae Crucis Equitem, suum Consiliarium, et a secretis Status, atque aerario regio Praepositum.

Qui post sibi mutuo tradita respectivae Plenipotentiae Instrumenta in sequentes articulos convenerunt:

ART. I. Religio Catholica Apostolica Romana est sola Religio regni utriusque Siciliae, atque in eo semper conservabitur cum omnibus juribus, ac praerogativis, quae ipsi competunt ex Dei ordinatione, et canonicis sanctionibus.

II. Consequenter ad articulum praecedentem Instructio in regius Universitatibus, Collegiis, et Scholis tam publicis, quam privatis, erit in omnibus conformis doctrinae ejusdem Religionis Catholicae.

III. Cum in Conventione anni 1741 unio nonnullarum Sedium episcopali, quae angustissimis continentur limitibus, et ubi episcopalis dignitas redditum etiam modicitate vilescebat, necessaria agnita fuerit, cumque unionem istam, quae tunc peracta non fuit, tum earundem, tum aliarum Sedium deterior

facta conditio nunc magis magisque postulet, ideo in ditione citra Pharum, servatis servandis, et exquisito prius interesse habentium consensu, nova fiet Dioecesium Circumscriptio. In ea constituenda Fidelium commodum, et spiritualis praesertim utilitas respicientur. Ex episcopalibus Sedibus, quae ob nimiam reddituum modicitatem, aut locorum obscuritatem, aut ob alias rationabiles causas conservari non poterunt, antiquiores et insigniores conservabuntur tamquam Concathedrales.

In ditione vero trans Pharum omnes archiepiscopales et episcopales Sedes, quae nunc existunt, conservabuntur; imo earum numerus, ut commodo, ac spirituali Fidelium utilitati melius prospiciatur, augebitur.

Territoria quarundam Abbatiarum Nullius Dioecesis, quae aut angustis nimium continentur limitibus, aut sua bona amiserunt, aut modicis admodum dotatae sunt redditibus, collatis consiliis, iis unientur Dioecesibus, intra quarum fines in nova Circumscriptione sita reperientur.

Abbatiarum Consistorialium, quarum annui redditus summam ducatorum quingentorum excedunt, nulla unio fiet. Bona aliarum Abbatiarum pariter Consistorialium (iis exceptis quae sunt juris-patronatus) quarum annui redditus supradictam summam non attingunt, aut unientur aliis Abbatibus ecclesiasticis usque ad quingentorum ducatorum summam, aut augendis dotibus Capitulorum, et Paroeciarum applicabuntur.

Haec dispositio Ordinum Militarium Commendas non respicit.

IV. Quaelibet Mensa episcopalis in Regno gaudebit annuo redditu ad minus trium millium ducatorum ex bonis stabilibus, publicis deductis oneribus.

Sanctitas Sua, collatis cum Regia Majestate consiliis, ejusmodi dotes quam citius fieri poterit constituet pro iis Sedibus episcopalibus, quibus praesens dispositio applicanda erit.

V. Quaelibet Ecclesia tam archiepiscopalis, quam episcopalis suum habebit Capitulum, ac Seminarium, quibus si dos sufficiens erit, conservabitur, sin secus augebitur, aut si opus fuerit etiam ex integro constituetur in bonis stabilibus.

Quaelibet Dignitas Capituli archiepiscopalis Ecclesiae Neapolitanae annuo ducatorum ad minus quingentorum, reliqui vero Canonicatus annuo redditu ad minus ducatorum quadringentorum gaudebunt.

Singulae dignitates Capitulorum caeterarum Ecclesiarum partis regni citra Pharum, quae in nova Circumscriptione constituentur, ducata ad minus centum octoginta, reliqui vero Canonicatus ducata ad minus centum pro annuo unicusque redditu habebunt.

Excipiuntur Canonicatus Patronatus regii, ecclesiastici et laicalis, qui manebunt ut sunt, nisi forte eorum annui redditus a suis Patronis canonica methodo augeantur.

Seminaria dirigentur, eorumque bona administrabuntur juxta Concilium Tridentinum.

VI. Bona Ecclesiarum uniendarum iis Ecclesiis applicabuntur, quae in nova Circumscriptione conservabuntur, nisi forte earundem Ecclesiarum uniendarum necessitates diversam praedictorum bonorum applicationem ecclesiasticam postulent, quae fieri debet cum interventu auctoritatis Sanctae Sedis.

Capitula earum Ecclesiarum, quae in nova Circumscriptione non conservabuntur, exquisito prius interesse habentium consensu, commutabuntur in Capitula Collegiata cum fundis ac redditibus quae nunc possident.

VII. Paroeciis, quae sufficientem congruam non habent, dos ita augebitur, ut iis Paroeciis, quae duobus hominum millibus non constant, ad minus ducata centum, iis quam numerum quinque millium animarum non attingunt, ad minus ducata centum quinquaginta, caeteris vero quae majorem animarum numerum continent, ducata ad minus biscentum pro annuo redditu constituentur.

Parochialis Ecclesiae conservatio, uti et cooperatoris Parochi stipendia, ubi redditus ad id attributi non adsint, respectivis civitatibus incumbent, et praediales dabuntur fundi, aut vectigalis privilegiata pecunia.

Haec dispositio non respicit Ecclesias parochiales juris-patronatus sive regii, sive ecclesiastici, sive laicalis canonice acquisiti, quarum onus respectivis Patronis incumbet.

Excipiuntur pariter Ecclesiae receptitiae sive numeratae, sive innumeratae, Capitula et Collegiatae, quibus cura animarum inest, cum suam congruam in communibus bonis habeant.

VIII. Collatio Abbatiarum Consistorialium, quae juris-patronatus regii non sunt, perpetuo spectabit ad Sanctam Sedem, quae illas viris ecclesiasticis subditis Majestati Suae conferet.

Collatio Beneficiorum simplicium liberae collationis cum fundatione et erectione in titulum ecclesiasticum fiet a Sancta Sede, et ab Episcopis pro diversitate mensium, quibus vacabunt; scilicet a mense Januarii usque ad mensem Junii conferentur a Sancta Sede, a mense vero Julii usque ad mensem Decembris conferentur ab Episcopis. Provisio autem semper fiet in favorem subditorum Majestatis Suae.

IX. Catalogus tam Abbatiarum regii patronatus, quam earum quae regii patronatus non sunt, prout apud Cappellanum majorem descriptae reperiuntur, quamprimum Sanctitati Suae exhibebitur. Catalogus iste deinceps concorditer corrigi poterit.

X. Canonicatus liberae collationis in Capitulis, sive Cathedralibus, sive Collegiatis, respective conferentur a Sancta Sede, et ab Episcopis; scilicet sex primis anni mensibus a Sancta Sede, aliis vero sex mensibus ab Episcopis.

Prima Dignitas semper erit liberae collationis Sanctae Sedis.

XI. Sanctitas Sua concedit Episcopis Regni jus conferendi Paroecias, quae quovis anni tempore erunt vacaturae. Praevio concursu in Paroeciis liberae collationis, Episcopi eas conferent iis inter approbatos, quos digniores judicabunt. In Paroeciis vero juris patronatus ecclesiastici, praevio pariter concursu, eos instituent, quos tanquam digniores inter approbatos ab Examinatoribus, Patronus ecclesiasticus praesentabit. Tandem in Paroeciis juris-patronatus regii et laicalis, Episcopi praesentatos instituent, dummodo praemisso examine idonei fuerint inventi.

Excipiuntur Paroeciae vacaturae in Curia, aut quarum Parochi fuerint a S. Sede de aliqua ecclesiastica Dignitate, aut Canonicatu provisi. Harum omnium collatio spectabit ad summum Pontificem.

XII. Omnia bona Ecclesiastica non alienata a Gubernio Militari, quaeque in redditu Majestatis Suae penes administrationem vulgo del Demanio reperta sunt, Ecclesiae restituuntur.

Praedictorum bonorum procuratio statim post praesentis Conventionis ratificationem quatuor selectissimis Viris, quorum duo a Sanctitate Sua, duo a Regia Majestate nominabuntur, interim committetur, qui illa fideliter administrabunt, donec modo debito destinentur et applicentur.

XIII. Cum in ditionibus citra Pharum sub Militari regimine haud parva pars bonorum ad Ecclesiam spectantium alienata fuerit, cumque Majestas Sua ut omni qua posset ratione hostium incursioni obsisteret, tum Neapoli antequam hostes praedictas ditiones invaderent, tum in ditionibus trans Pharum ne invaderentur, bona, pariter ecclesiastica, in parva quantitate alienare et Ipsa coacta fuerit, assignatis tamen possessoribus ecclesiasticis in praedicta ditione trans Pharum pro debita indemnitate totidem redditibus civilibus; hinc instante Majestate Sua, et ne publica tranquillitas perturbetur, cujus Conservatio Religioni quam maxime interest, Sanctitas Sua declarat eos omnes, qui praedicta Ecclesiae bona alienata possident, nullam molestiam habituros neque a Se, neque a Romanis Pontificibus Successoribus suis; ac consequenter proprietates eorundem bonorum, redditus et jura iis inhaerentia immutabilia penes ipsos erunt, atque ab ipsis causam habentes.

XIV. Bonorum Patrimonii Regularis, quae a militari regimine non alienata et in administratione vulgo del Demanio in redditu Majestatis Suae reperta fuere, cum ea sit conditio, ut minime sufficiant restituendis omnibus utriusque sexus Religiosis Domibus, eadem eo majori numero restituantur, quem dotationum quae supersunt modus patietur, ex iis praesertim Institutis, quae Juventuti in Religione, et Literis instituendae, curae Infirmorum, et praedicationi verbi Dei incumbunt.

Bona Ordinum Regularium possidentium non alienata, debita proportionem Religiosis Domibus reserandis assignabuntur, quin ulla habeatur ratio de antiquae proprietatis titulis, qui tituli omnes in vim hujus articuli declarantur extincti.

Domus Religiosae non alienatae, exceptis iis, quae publicis usibus in totum addictae sunt, si ob reddituum defectum restitui non poterunt, Patrimonii Regularis partem efficient. Quoties autem dicti Patrimonii utilitas id postulaverit, etiam alienari poterunt, ea tamen lege, ut pretium inde percipiendum in favorem praefati Patrimonii cedat.

Numerus existentium Conventuum Religiosorum Mendicantium, quos Minores Observantes, Reformatos, Alcantarinos, et Capucinos vocant, quoties circumstantiae, et Fidelium necessitates id postulent, augebitur.

Postquam Religiosae Domus constitutae et dotatae fuerint, Ordinibus Regularibus possidentibus, nec non Sacris Virginibus, habito respectu ad ea quae ad vitam sustentandam iis suppetent, Novitios acceptare liberum erit. Eadem ratione acceptatio Novitiorum libera erit Religiosis Mendicantibus.

Puellarum, quae in posterum sese Deo mancipabunt, dotes, quas attulerint, juxta leges canonicas Monasterio cedent.

Religiosi omnes tam Mendicantes, quam possidentes in utriusque Siciliae regno vel existentes, vel restituendi, suis Superioribus Generalibus subditi erunt.

Religiosis eorum Institutorum Regularium possidentium, quae in dominiis citra Pharum restituentur, saecularizationis Indultum a S. Sede obtinentibus, et de aliquo ecclesiastico Beneficio non provisus, Gubernium Aerarii publici sumptibus, titulo patrimonii, annuam pensionem, qua nunc gaudent, persolvat, donec de congruenti Beneficio, aut Cappellania provideantur. Religiosis autem illorum Institutorum, quae restitui non poterunt, annua pensio, qua nunc gaudent, a Gubernio indistincte persolvetur.

XV. Ecclesia jus habebit novas acquirendi possessiones, et quidquid de novo adquisierit faciet suum, et censebitur eodem jure, ac veteres Fundationes Ecclesiasticae.

Hac libertate in posterum gaudebit Ecclesia, quin tamen praejudicium ullum afferatur legalibus effectibus legum vulgo di ammortizzazione, quae in regno viguerunt usque ad hanc diem, earumque legum executioni etiam in posterum pro casibus nondum consummatis, et conditionibus nondum impletis.

Nulla Fundationum Ecclesiasticarum fiet suppressio, aut unio absque interventu auctoritatis Sedis Apostolicae, salvis facultatibus a Sacro Concilio Tridentino Episcopis tributis.

XVI. Quum luctuosae temporum circumstantiae non patiantur Ecclesiasticos exemptione a publicis regiis et Civitatis oneribus gaudere, Majestas Sua pollicetur abusum superioribus temporibus in Regno introductum, quo Ecclesiastici, eorumque bona durioribus taxis prae Laicis praegravabantur, cessaturum: quin imo cum per felicia tempora Status conditio prosperior evadet, Regia Majestas largitionibus Clero opitulabitur.

XVII. Mons Frumentarius nuncupatus, Neapoli erectus, sive regia Procuratio spoliolum, et redditum Mensarum Episcopaliolum, Abbatiarum, aliorumque beneficiorum vacantium suppressitur.

Vix nova Dioecesium Circumscriptione peracta, in qualibet earum constituentur Administrationes Dioecesanae, quarum unaquaeque constabit duobus Canonicis a Capitulo seu metropolitano, seu cathedrali tertio quoque anno per suffragiorum pluralitatem eligendis, ac renovandis, et a Regio Procuratore, quem Majestas sua nominabit.

Cuilibet Congregationi, seu Administrationi Dioecesanae praesidebit Episcopus, aut ejus Vicarius Generalis, Sede vero vacante Vicarius Capitularis.

Ordinarius, et Regia Majestas per suum Administrum, collatis consiliis, fructus ex supradictis beneficiis vacantibus perceptos in favorem Ecclesiarum, Hospitalium, Seminariorum, in subsidia charitatis, et in alios usus pios erogabunt, servata tamen dimidia parte redditum Mensarum episcopaliolum vacantium pro futuro earundem Episcopo.

Regia praescriptio adhuc vicens, vi cujus tertia pars redditum Mensarum episcopaliolum, et beneficiorum sub appellatione Tertii Pensionabilis apud supradicti Montis Frumentarii Administratorem deponeretur, per praesentem Articulum abrogatur, quin tamen praesentes pensionarii priventur pensionibus, quibus nunc gaudent.

Tempore provisionum Episcopatuolum, et Beneficiorum regiae nominationis, reservatio pensionum secundum formas canonicas locum habere perget. Nominati a Majestate Sua ad praedictas pensiones a S. Sede Bullas Apostolicas obtinebunt, vi quarum pensiones ipsas quoad vixerint percipere et suas facere poterunt. Pensionario vita functo, Episcopatus, aut Beneficium ab onere persolvendae pensioni qua gravabatur, liberum erit.

XVIII. Sanctitas Sua super aliquas episcopales Mensas, et Abatias Regni designandas sibi reservat in perpetuum annuas pensiones in summa ducatorum duodecim millium, quas Romanus Pontifex pro tempore suis subditis Status Ecclesiastici pro lubitu conferet.

XIX. Beneficia, et Abatiae existentes in Regno utriusque Siciliae, quarum fructus aut ex toto, aut ex parte applicati reperiuntur personis eccle-

siasticis, et aliquibus Ecclesiis, Collegiis, Monasteriis, et piis Domibus Urbis, aliorumque Locorum Status Ecclesiastici, suam conservabunt applicationem in favorem praedictorum. Haec dispositio non respicit Beneficia et Abatias regii patronatus, et illa quorum bona alienata fuerunt.

XX. Archiepiscopi et Episcopi in exercitio eorum Pastoralis Ministerii prorsus liberi erunt secundum Sacros Canones.

Causas Ecclesiasticas, atque in primis causas Matrimoniales, quae juxta Canonem 12. Sess. 24. sacri Concilii Tridentini ad Judices Ecclesiasticos spectant, in Foro eorum cognoscent, ac de iis sententiam ferent. Haec dispositio non respicit causas civiles Clericorum, exempli gratia, contractuum, debitorum, haereditatum, quas Laici Judices cognoscent et definient.

In Clericos reprehensione dignos, aut honestum clericalem habitum eorum ordini et dignitati congruentem non deferentes, poenas a sacro Concilio Tridentino statutas, aliasque quas convenientes judicaverint, salvo canonico recursu, infligent, cosque in seminariis, et domibus Regularium claudent: censuris quoque animadvertent in quoscumque Fideles ecclesiasticarum legum et sacrorum canonum transgressores.

In Sacris Visitationibus suarum Dioecesium, et ad limina Apostolorum peragendis, et in Dioecesanis Synodis convocandis liberi erunt.

Cum Clero, et Populo dioecesano pro munere officii pastoralis communicare, suasque instructiones, et ordinationes de rebus ecclesiasticis libere publicare, indicare preces publicas, aliaque pia opera, cum id bonum Ecclesiae, vel Status, aut Populi postulet, Archiepiscopis, et Episcopis Regni liberum erit.

Causae majores spectabunt ad Summum Pontificem.

XXI. Archiepiscopi et Episcopi, praemisso praescripto examine, Clericos de necessario patrimonio, aut alio canonico titulo provisos, quos suis dioecesibus necessarios, aut utiles judicaverint, ad Sacros Ordines promovebunt, servatis tamen cautelis et praescriptionibus in Decreto die prima Julii anni 1623 a Sa. Me. Gregorio XV lato, nec non capite 4 Conventionis anni 1741 cujus titulus est—Requisiti de promovendi—contentis, quibus cautelis et praescriptionibus per praesentem Conventionem non derogatur.

Ne autem Ecclesiasticis ad vitam sustentandam necessaria desint, annona praesentibus temporibus arctiore facta, Archiepiscopi et Episcopi post hujus conventionis publicationem taxam sacri patrimonii promovendorum ad Sacros Ordines, quae in bonis stabilibus constituenda erit, augebunt; ita tamen ut nec minor sit ducatis quinquaginta, nec ducatis octoginta major.

Quia vero experientia compertum est, in Regno per artem et fraudem Clericis ad Sacros Ordines promovendis pro sacro patrimonio eos fundos saepe assignari, qui vel ficti sunt, vel hypothecis, aliisque vinculis obnoxii, quo fit ut pluribus Ecclesiasticis post ordinationem modus sustentandae vitae desit, ut hujusmodi abusus evitetur ad facti veritatem adstruendam, de pertinentia, ut ajunt, atque exemptione ab omni hypothecae vinculo fundi, vel fundorum, qui a promovendis ad Sacros Ordines pro sacro patrimonio exhibentur, legaliter constare debet: ad quem effectum Curiae ecclesiasticae documentum authenticum de pertinentia, ut supra dictum est, et libertate fundi a Tribunali Civili Provinciae exquirent a quo illud recusari non poterit.

Si qui vero Clerici ad sacros ordines Beneficii ecclesiastici, aut Cappellaniae titulo promovebuntur, quoties talis Beneficii aut Cappellaniae annuus redditus ad taxam dioecesanam, ut supra, non pertingat tantumdem sibi ex aliis liberis fundis constituent, quantum supradictae taxae integritas postulaverit.

Excipiuntur illae dioeceses, in quibus ex dioecesana lege taxa sacri patrimonii in majori summa canonice constituta reperitur, respectu quarum nulla mutatio fiet.

XXII. Liberum erit ad Sanctam Sedem appellare.

XXIII. Episcoporum, Cleri et Populi communicatio cum Sancta Sede in rebus spiritualibus et negotiis ecclesiasticis prorsus libera erit, ac consequenter Epistolae ut ajunt Circulares, Leges et Decreta circa "Liceat Scribere" abrogantur.

XXIV. Quoties Archiepiscopi et Episcopi in libris introductis, vel qui introducuntur, impressis, vel qui imprimuntur in Regno, aliquid reppererint Ecclesiae doctrinae, aut bonis moribus contrarium, Gubernium eorum librorum divulgationem non permittet.

XXV. Regii Delegati Jurisdictionis ecclesiasticae munus a Majestate Sua supprimitur.

XXVI. Curia Cappellani Majoris, ejusque jurisdictio, iis continebitur limitibus, qui in Constitutione fel. rec. Benedicti XIV cujus initium—*Convenit*—et sequenti ejusdem Pontificis Motu proprio super eadem re praescribuntur.

XXVII. Ecclesiae proprietas in suis possessionibus et acquisitionibus sacra et inviolabilis erit.

XXVIII. Sanctitas Sua, attenta utilitate, quae ex hac Conventione manat in Religionem et in Ecclesiam, utque singularis benevolentiae suae testimonium Majestati Ferdinandi Regis praebeat, Eidem atque ab Eo descendentibus Catholicis in Regno Successoribus, concedit in perpetuum Indultum nominandi dignos et idoneos ecclesiasticos viros iis dotibus praeditos, quas sacri canones requirunt, ad omnes illas archiepiscopales et episcopales Ecclesias regni utriusque Siciliae, ad quas Majestas Sua jure nominandi nondum gaudebat; ac propterea statim post hujus Conventionis ratificationem Literas Apostolicas, quibus hoc Indultum continebitur, expediri jubebit.

Majestas Sua, tempore debito, Sanctitati Suae Nominatos manifestabit, ut necessarii processus juxta canones de iis fiant, atque Canonicam Institutionem modis et formis consuetis obtineant; priusquam vero eam obtinuerint, regimini, seu administrationi Ecclesiarum respectivarum, ad quas erunt designati, nullo modo sese immiscere poterunt.

XXIX. Archiepiscopi et Episcopi coram Majestate Regia juramentum fidelitatis emittent sequentibus verbis expressum. “Ego juro et promitto ad Sancta Dei Evangelia obedientiam et fidelitatem Regiae Majestati; item promitto me nullam communicationem habiturum, nullique consilio interfuturum, nullamque suspectam unionem neque intra, neque extra conservaturum, quae tranquillitati publicae noceat; et si tam in dioecesi mea, quam alibi noverim aliquid in Status damnum tractari Majestatis Suae manifestabo.”

XXX. Caetera vero res ecclesiasticas spectantia, quorum nulla mentio in his articulis facta est, dirigentur juxta vigentem Ecclesiae disciplinam. Si qua vero supervenerit difficultas, Sanctitas Sua et Majestas Sua secum conferre sibi reservant.

XXXI. Praesens conventio substituitur omnibus Legibus, Ordinationibus et Decretis in regno utriusque Siciliae circa res Religionis hucusque latis.

XXXII. Cum nomine Regiae Majestatis fuerit expositum Sanctitati Suae Conventionem anni 1741, attentis praesentibus Ecclesiarum regni citra Pharum necessitatibus, nec non effectibus ab hostili invasione exortis, non satis amplius prospicere malis, quibus omnino mederi necesse est, ac praeterea Ditionibus quoque trans Pharum, quas praedicta conventio complexa non fuerat, esse consulendum; insuper cum ex Ditionibus ultra et citra Pharum unum modo Regnum efformatum sit, uniformem omnino regulam constituendam esse in Ecclesiis universi Regni observandam, utriusque Partis consensu praesens conventio praecedenti substituitur.

XXXIII. Utraque Contrahentium Pars spondet Se, Successoresque suos omnia de quibus in his articulis utriusque conventum est, sancte servaturos.

XXXIV. Ratificationum hujus Conventionis traditio fiet Romae non ultra quindecim dierum spatium a die his articulis apposita.

XXXV. Post hujus Conventionis ratificationem, ejusdem executio duobus Selectissimis Viris, quorum alter a Sanctitate Sua, alter a Majestate Regia nominabitur, committetur, iique a respectivis Partibus Contrahentibus necessariis et opportunis facultatibus munientur.

In quorum fidem praefati Plenipotentarii praesenti Conventioni subscripserunt, illamque suo quisque sigillo obsignavit.

Datum Anxure (Terracina) die Decimasexta Februarii anni millesimi octingentesimi decimi octavi.

(Loco ✕ Sigilli)

HERCULES CARD. CONSALVI.

(Loco ✕ Sigilli)

CAV. LUIGI DE' MEDICI.

(Translation.)

Pius, Bishop, servant of the servants of God, for perpetual remembrance.

PLACED on the most lofty summit of Apostolic dignity superior to our merits, so soon as it was given to us by the beneficence of God, to look round on the return of peace upon the Universal Church from this citadel of faith and religion, we immediately saw how many calamities and what bitter wounds the great disturbances of recent times had brought upon the Christian Republic.

Being affected by deep grief, and moved by these dreadful evils, we were forced to pour forth frequent sighs from the bottom of our heart and plenteous tears from our eyes; but then placing our hope steadfastly in God, the giver of all good, who will not suffer those who trust in him to be confounded, and hath promised that he will never fail to his Church, and being prepared to undergo every labour for the safety of the flock of Christ committed to our charge, we have determined to apply all our strength and wisdom to the distressed and afflicted state of the Church.

And although our solicitude is constantly watching over the whole of the Lord's flock, the churches of the neighbouring Kingdom of the Sicilies have first presented themselves before our eyes; their necessities, and the evils which have long afflicted them, and which have been greatly increased of late years, and multiplied by political changes, have moved our paternal feelings, and have seemed by a certain peculiar claim to call for the most anxious attention of our Apostolic office. The well-known religion and piety of our most beloved son in Christ, Ferdinand, the illustrious King of the Two Sicilies, have greatly aided us in at length applying to those churches that anxious attention with good results, which previously to the late disturbances in that kingdom had been given to them as well by Pope Pius VI, our predecessor, as by ourself. For the King, properly considering that Royal power was given not only for the government of secular affairs, but above all for the protection of the Church, so soon as he recovered the ancient portion of his dominions on this side of the Straits, compassionating with us the perilous state of religion, and the danger to which men's souls were exposed, anxiously desired to enter into a new Convention with this Holy Apostolic See, by which means should be devised for consolidating the disturbed state of the Church in his kingdom, and in hearty conjunction with us took measures for carrying this very necessary object into effect.

In order, therefore, that we might fulfil our own desires and those of that most pious King, we immediately deputed with the necessary powers and instructions our venerable brother, Didaco Innico Caracciolo, Bishop of Palestrina, Cardinal of the Holy Roman Church; and we afterwards joined with him the Roman priest Filippo Guidi, recently deceased, to treat of that matter with the Royal Ministers at Naples. The affair was carried on for a long time, and with the utmost attention and diligence on both sides; but as the parties were unable to agree as desired on all hands, the aforesaid King Ferdinand requested that we would depute our Secretary of State, Ercole Consalvi, Cardinal Deacon of the Holy Roman Church, our beloved son, who should confer on the matter with one of the chief Ministers of the King, so that they might endeavour together to remove those difficulties which had hitherto prevented the affair from being brought to the desired conclusion. We did therefore send the aforesaid Cardinal without delay to our town of Terracina, where he was joined on the part of the King, by our beloved son, the Chevalier Luigi de' Medici, Councillor of His Majesty, Secretary of State, and Minister of Finances; and after a sedulous negotiation, carried on for several days in that city, by the favour of the Father of Mercies, the affair was at last arranged between the parties in several Articles, which were signed both by our Plenipotentiary and that of the King, on the 16th day of February of that year; which Articles being brought to us, we have diligently considered the same, and having heard the opinions of a select congregation of some of our venerable brethren, we have judged them to be worthy of our supreme approbation.

The tenor of the Convention concluded is as follows:—

Convention between the most holy Lord Pius VII, Supreme Pontiff, and His Majesty Ferdinand I, King of the Two Sicilies.

In the name of the Most Holy Trinity.

His Holiness Pius VII, and His Majesty Ferdinand I, King of the Two Sicilies, equally desirous of remedying the evils which have crept into the ecclesiastical affairs of the kingdom [of Naples], have resolved of common accord to enter into a new Convention.

His Holiness Pius VII has for this effect named as his Plenipotentiary, his Eminence Ercole Consalvi, Cardinal Deacon of the Holy Roman Church, of the title of St. Mary ad Martyres, Secretary of State;

And His Majesty Ferdinand I, King of the Two Sicilies, has named his Excellency Luigi de' Medici, Knight of the Royal Order of Saint Gennaro, Grand Cross of the Royal Orders of Saint Ferdinand of the Merit, Constantinian of Saint George, and of the Imperial Order of Saint Stephen of Hungary, his Counsellor and Secretary of State, and Minister of Finances;

Who, after exchanging their full-powers, have agreed to the following Articles:

Article I. The Roman Catholic Apostolic religion is the only religion of the Kingdom of the Two Sicilies, and it shall always be maintained in the same, with all the rights and prerogatives appertaining to it by divine ordinance and the sanction of the canons.

II. As a consequence of the preceding Article, the instruction in the royal universities, colleges, and schools, both public and private, shall be in everything conformable to the doctrine of the said Catholic religion.

III. Whereas in the Convention of the year 1741, the annexation of certain episcopal sees which were confined within too narrow limits, and where the episcopal dignity, in consequence of the small amount of revenue, had fallen into disesteem, was admitted to be necessary: and whereas the deteriorated condition both of the said sees and some others now, still more and more demand that such annexation, which was not then accomplished, be now carried into effect; therefore, in the dominions on this side of the straits, there shall be a new division of dioceses, all due forms being observed, and having first required the assent of the parties interested. In making this division respect shall be had to the convenience of the faithful, and especially to their spiritual advantage. And the older and more celebrated of those episcopal sees which either on account of inadequate revenues, or of obscure localities, or for any other causes cannot be retained, shall be retained as adjunct cathedrals (*concathedrales*).

In the dominions, however, beyond the straits, all the archiepiscopal and episcopal sees now existing shall be retained, and their number shall even be increased in order to provide better for the convenience and spiritual advantage of the faithful. The territories of certain abbeys which, being peculiar, either are comprised within too narrow limits, or have lost their estates, or are endowed with very small revenues, shall, by mutual agreement, be annexed to those dioceses within the boundaries of which they shall be situated in the new division.

There shall be no annexation of consistorial abbeys whose annual revenue exceeds the sum of 500 ducats. The estates of other abbeys, also consistorial (except advowsons), whose annual revenue is under the above amount, shall either be annexed with other ecclesiastical abbeys to the extent of 500 ducats, or shall be applied to the augmentation of the endowments of chapters and parishes.

This regulation does not affect the commanderies (*commendas*) of the military orders.

IV. Every episcopal see in the kingdom shall have an annual revenue of at least 3000 ducats from landed estates, exclusive of public taxes.

His Holiness will, as soon as possible, determine, with His Majesty's concurrence, the endowments of this nature for those episcopal sees to which the present regulation shall be applicable.

V. Every church, as well archiepiscopal as episcopal, shall have its chapter and seminary; and if the endowment of these be sufficient it shall be retained, but if not it shall be increased, or if necessary, it shall be wholly constituted anew in landed estates.

Every dignity of the archiepiscopal chapter of the Church of Naples shall possess an annual revenue of at least 500 ducats, and other canonries shall have a revenue of at least 400 ducats.

Every dignity of the chapters of other churches of the part of the kingdom on this side of the straits, which are to be constituted by the new division of the dioceses, shall have, each of them, an annual revenue of 180 ducats at least, and other canonries 100 ducats per annum, at least.

From this are excepted canonries of royal, ecclesiastical, or lay patronage, which shall remain as they are, unless their annual revenue be augmented by their patrons in a canonical way.

Seminaries shall be governed and their estates administered according to the Council of Trent.

VI. The estates of the churches to be annexed shall be appropriated to those

churches which are to be retained in the new division, unless the necessities of the churches which are to be united should require a different ecclesiastical application of those estates, which shall take place under the authority of the Holy See.

The chapters of those churches which shall not be retained in the new division shall, with the previous consent of the parties interested, be converted into collegiate chapters with the funds and revenues which they now possess.

VII. Endowments shall be augmented for those parishes which have not sufficient provision (*congruam sufficientem*), so that those parishes consisting of less than 2000 inhabitants shall have not less than 100 ducats per annum, those having less than 5000 shall have at least 150 ducats, and the rest which have a larger number of inhabitants shall have at least 200 ducats of annual revenue.

The maintenance of the parish church, and the stipend of the curate assisting the parish priest, in cases where there is not a special revenue for those purposes, shall be defrayed by the respective towns, and either landed property shall be granted or a special rate (*vectigalis privilegiata pecunia*) shall be raised in money.

This provision does not apply to churches either of royal, ecclesiastical, or lay patronage, canonically acquired, the expense of which shall be borne by the respective patrons.

Except also private or reserved (*receptitiæ*) churches, enumerated or not enumerated, chapters and collegiate churches, to which is attached cure of souls, as they derive a sufficient provision (*congrua*) from their corporate estates.

VIII. The collation of consistorial abbeys which are not of royal presentation shall for ever appertain to the Holy See, which shall appoint to them ecclesiastical persons subjects of His Majesty.

The appointment to simple benefices of free collation with foundation and free erection to an ecclesiastical title, shall be made by the Holy See and by the bishops according to the month in which they become vacant; that is to say, from the month of January to the month of June the collation shall be made by the Holy See, and from the month of July to the month of December by the bishops; the presentation shall always be made in favour of the subjects of His Majesty.

IX. The list of abbeys, whether of royal patronage or not, as drawn up by the Grand Chaplain, shall be as early as practicable laid before His Holiness. This list may afterwards be corrected by common consent.

X. Appointments to canonries of free collation in chapters, either in cathedrals or in collegiate churches, shall be made respectively by the Holy See and the bishops; that is to say, in the first six months of the year by the Holy See, in the other six months by the bishops.

The highest dignity shall always be of the free collation of the Holy See.

XI. His Holiness concedes to the bishops of the kingdom the right of collation to parishes which fall vacant at any period of the year. After previous competition (*concursu*) in parishes of free collation, the bishops shall appoint those among the approved candidates whom they shall judge most worthy. In parishes, however, of ecclesiastical patronage, likewise after previous competition, they shall induct those whom the ecclesiastical patron shall present as the most worthy among those approved by the examiners. And lastly, in the parishes of royal and lay patronage, the bishops shall induct the persons presented, if they be found fit on previous examination.

Are excepted the parishes which may become vacant by the incumbents dying at Rome (*in curia*), or whose incumbents are appointed by the Holy See to some ecclesiastical dignity or canonry. The collation of all these shall be vested in the Supreme Pontiff.

XII. All ecclesiastical estates not alienated by the Military [Murat's] Government, and which, on the return of His Majesty, were still found to form part of the royal domain (*del demanio*), are restored to the Church.

The management of the said estates shall immediately after the ratification of the Convention be provisionally intrusted to four persons of very high character, two of whom shall be named by His Holiness and two by His Majesty; these four persons shall faithfully administer the said estates until they shall be appropriated and applied in a proper manner.

XIII. Whereas, in the dominions on this side of the straits a considerable

portion of the property belonging to the Church was alienated under the Military Government, and whereas His Majesty, with the object of resisting by every possible means the invasions of the enemy, was himself compelled (in Naples before the enemy conquered those dominions and in the dominions beyond the straits, in order that they might not be invaded) to alienate the ecclesiastical estates also to a small amount, an equal amount of income from the public funds being however assigned to the ecclesiastical possessors as a due indemnification in the said dominions beyond the straits; for this reason, at the urgent request of His Majesty, and in order to the preservation of the public tranquillity, the maintenance of which is of the utmost importance to religion, His Holiness declares, that all those persons who possess those estates of the Church alienated as aforesaid, shall have no molestation, either from himself or from the Popes of Rome his successors; and consequently, their property in those estates, their rents, and the rights inherent in the same, shall be for ever vested in them and their representatives.

XIV. And inasmuch as the condition of the property of the regular orders (*patrimonii regularis*) which was not alienated by the Military Government, and was found at His Majesty's return administered by that department of Government called *del Demanio*, is such that it is not sufficient for re-establishing all the religious houses for persons of both sexes, as many of the same shall be restored as the means of endowment subsisting will admit, chiefly of such institutions as are designed for the instruction of young persons in religion and learning, for the support of infirm persons and for the preaching of the word of God.

The unalienated estates belonging to the regular orders shall be appropriated in fair proportion to the re-opening of religious houses, no regard being paid to the titles of ancient ownerships, all such titles, by virtue of the present Article, being declared extinct.

Religious houses not alienated, with the exception of such as are wholly assigned to public uses, shall, when they cannot be reopened from want of revenue, form a portion of the patrimony of regular orders. And whenever it may be for the advantage of the said patrimony, they also may be alienated, but with the proviso that the value received for the same be made over to the benefit of the said patrimony.

The number of the existing convents of religious mendicant orders, called Minor Observants, Reformed, barefooted Franciscans (*Alcantarinos*), and Capuchins, shall be augmented whenever circumstances and the necessities of the faithful may require it.

When the religious houses shall have been constituted and endowed, the regular orders possessing property, as well as the holy nuns, due regard being had to what is required for their maintenance, shall be allowed to receive novices. In the same manner the mendicant friars shall be free to receive novices.

In the case of women who shall devote themselves for ever to God, the dotation which they bring with them shall become the property of the monastery, as prescribed by the canon laws.

All monks or friars, as well mendicants as non-mendicants, either now existing or to be restored in the Kingdom of the Two Sicilies, shall be subject to their general superiors.

The Government shall pay out of the public treasury, under the denomination of patrimony, to the members of those institutions of non-mendicant orders which shall be restored in the dominions within the straits, and who shall obtain from the Holy See an indult of secularization without being provided out of any ecclesiastical benefice, the annual pension which they now receive, until they be provided from a suitable benefice or chaplaincy (*cappellania*). And to the religious persons of those institutions which cannot be restored, the Government shall pay, without distinction, the annual pension which they now receive.

XV. The Church shall have a right to acquire new possessions, and whatever it shall newly acquire shall become its own, and shall be considered in the same legal point of view as the old ecclesiastical foundations.

The Church shall enjoy this liberty in future, but without any prejudice to the lawful effects of the laws commonly called of mortmain, which are now in force in the kingdom, and to the future execution of the said laws also in cases not yet completed, and under conditions not yet fulfilled.

No suppression or annexation of ecclesiastical foundations shall take place

without the intervention of the authority of the Holy See, saving the powers granted to the bishops by the sacred Council of Trent.

XVI. Whereas the unhappy circumstances of the times will not allow ecclesiastics to enjoy an exemption from public, royal and municipal imposts, His Majesty promises that the abuse introduced into the kingdom in times passed, by which ecclesiastics and their property have been burdened with heavier taxes than laymen, shall cease; and if the condition of the State shall become more prosperous through happier times, His Majesty will even aid the clergy with largesses.

XVII. The establishment in Naples called the Lending Warehouse for Corn-seed (*Mons Frumentarius*), or the royal administration of the standing crops left by incumbents, and of the revenues of episcopal, abbatial, and other benefices left vacant, is hereby suppressed.

So soon as the new division of dioceses shall be completed, diocesan administrations shall be established in all of them, each of which shall consist of two canons, to be elected and renewed every third year by a majority of votes of the metropolitan or cathedral chapter, and by a Royal Commissioner to be named by His Majesty.

The bishop or his vicar-general shall preside over every diocesan congregation or administration; and when the see is vacant, the capitular-vicar shall preside.

The ordinary and His Majesty, by his Minister, shall apply, by mutual agreement, the revenues of the aforesaid vacant benefices to the benefit of churches, hospitals, seminaries in aid of charities, and for other pious purposes, reserving however the half of the revenues of the vacant episcopal sees for the future bishops of the same.

The royal order hitherto in force, by virtue of which the third part of the revenues of the episcopal sees and of benefices was delivered over to the administration of the aforesaid "*Mons Frumentarius*," under the denomination of "Third for Pensions," is by the present Article annulled, without however depriving the present pensioners of the pensions which they now receive.

At the time of the nominations to bishoprics and to benefices of royal presentation, the reservations of pensions shall continue to take place in a canonical form. Persons nominated by His Majesty to the pensions aforesaid, shall obtain from the Holy See Apostolic bulls, by virtue of which they will be enabled to receive those pensions and retain them for their own purposes as long as they live. On the death of the pensioner the bishopric or benefice shall be relieved from the payment of the pension with which it was charged.

XVIII. Upon certain episcopal revenues and abbeys of the kingdom to be specified, His Holiness reserves for himself in perpetuity annual pensions to the amount of 12,000 ducats, which the Roman Pontiff for the time being may bestow at pleasure upon his subjects of the ecclesiastical States.

XIX. Benefices and abbeys existing in the Kingdom of the Two Sicilies, the revenues of which are found either wholly or in part assigned to ecclesiastical persons, and to certain churches, colleges, monasteries, and pious houses of Rome, and other places of the ecclesiastical States, shall continue to be applied as heretofore. This regulation does not affect benefices and abbeys in the King's gift, nor those whose estates have been alienated.

XX. Archbishops and bishops shall be wholly free in the exercise of their pastoral ministry, according to the sacred canons.

They shall in their own courts take cognizance of and pass sentence in ecclesiastical causes, and, above all, in matrimonial causes, which by canon 12, session 24 of the sacred Council of Trent, are under the jurisdiction of the ecclesiastical judges. This regulation has no reference to the civil causes of the clergy; as, for example, respecting contracts, debts, heritages, which lay judges shall take cognizance of and determine.

They shall inflict upon those ecclesiastics who deserve reprehension, or who do not wear a becoming clerical dress suitable to their order and dignity, the penalties directed by the sacred Council of Trent, and other penalties which they may think proper, saving the right of appeal according to the canons; and they may confine them in seminaries and convents; they may also lay censures upon any of the faithful who shall transgress the ecclesiastical law and sacred canons.

They shall be at liberty to perform holy visitations in their dioceses, to proceed to Rome (*ad limina Apostolorum*), and to convoke diocesan Synods.

The archbishops and bishops of the kingdom shall be at liberty to communicate with the clergy and people of their dioceses in the discharge of their pastoral duty, and to publish freely their instructions and ordinances relating to ecclesiastical affairs, to enjoin public prayers and other pious works when required for the good of the Church, the State, or the people.

Causes of the highest importance (*causæ majores*) appertain to the Supreme Pontiff.

XXI. Archbishops and bishops, after previous examination as prescribed, shall induct into holy orders the clergy who are provided with the necessary income qualification (*patrimonium*) or other canonical title whom the bishops may think necessary or advantageous to their dioceses, saving, however, the precautions and directions contained in the decree of Gregory XV, of holy memory, dated the 1st July, 1623, and in the 4th clause of the Convention of the year 1741, entitled "Requisiti de' promovendi," which precautions and directions are not annulled by the present Convention.

In order that ecclesiastics may never be in want of the necessities of life now that food has become more scarce, the archbishops and bishops, after the publication of this Convention, shall increase the amount of the sacred income qualification of persons to be inducted into holy orders, which shall be charged on real property, so that none shall have less than fifty nor more than eighty ducats.

And because it has been found by experience, that real estates in the kingdom [of Naples] are often by art and fraud assigned as a qualification to persons in minor orders (*clericis*) about to be promoted to holy orders, which are either fictitious or subject to mortgages or other burdens, whereby many ecclesiastics after ordination have not sufficient for their support, in order to prevent any abuse of this nature and to ascertain the truth, legal proof shall be given by those who wish to be ordained, of the ownership and of the exemption from all burden of mortgage of the real property which is proposed as a qualification, for which purpose the ecclesiastical courts shall demand from the civil courts of the province, which shall not have the power to refuse it, an authentic document as to the ownership of the land, as above mentioned, and of its exemption from burdens.

And if any persons in minor orders shall be promoted to holy orders with title of an ecclesiastical benefice or chaplaincy, whenever the annual revenue of such benefice or chaplaincy shall be under the diocesan amount as above stated, they shall only be required to have from other free real property so much as is necessary to make up the amount as above required.

Those dioceses are excepted in which, by the usage of the diocese, an amount of qualification is canonically fixed at a larger sum; in respect to them there shall be no alteration.

XXII. There shall be free right of appeal to the Holy See.

XXIII. The bishops, clergy, and people shall be entirely free to communicate with the Holy See in spiritual matters and ecclesiastical affairs, and in consequence the so-called Circular Epistles, Laws, and Decrees granting permission to write, are abolished.

XXIV. Whenever the archbishops or bishops shall find anything contrary to the doctrine of the Church or to good morals in printed books already imported or which may be imported into the kingdom, or printed there, the Government shall not allow such books to be published.

XXV. The office of Royal Delegate to (watch over) ecclesiastical jurisdiction is suppressed by His Majesty.

XXVI. The court of the High Chaplain, and its jurisdiction, shall be restricted within the limits prescribed in the Constitution of Benedict XIV, of holy memory, beginning "Convenit;" and in the subsequent *motu proprio* of the same Pontiff on that subject.

XXVII. The right of property of the Church to its possessions and acquisitions shall be sacred and inviolable.

XXVIII. His Holiness, in consideration of the advantages accruing from this Convention to religion and the Church, and in order to give a proof of his especial benevolence to His Majesty King Ferdinand, grants to him, and to the Catholic successors in the kingdom descending from him, the permission for

ever (*perpetuum indultum*) of nominating worthy and fit ecclesiastical persons, endowed with the qualifications required by the sacred canons, to all those archiepiscopal and episcopal churches of the Kingdom of the Two Sicilies, to which His Majesty has not now the right of nominating; and he will, therefore, immediately after the ratification of this Convention, order that apostolic letters containing such grant be expedited.

His Majesty at the proper time will make known the persons nominated to His Holiness, so that the necessary proceedings may take place concerning them according to the canons, and so that they may obtain canonical induction in the accustomed modes and forms; but until they have obtained such induction they shall not be able in any manner to interfere in the government or administration of the respective churches to which they may be appointed.

XXIX. The archbishops and bishops shall take the oath of allegiance before His Majesty, in the following terms:

“ I swear and promise on the holy Gospels of God, obedience and allegiance to His Royal Majesty; and I also promise that I will have no communication, that I will not partake in any design, that I will maintain no suspicious connexion either at home or abroad which may endanger public tranquillity; and that if I am aware that any machination is being carried on, whether in my diocese or elsewhere, to the disadvantage of the State, I will make the same known to His Majesty.”

XXX. All other matters in relation to ecclesiastical affairs, of which no mention is made in these Articles, shall be conducted according to the discipline of the Church now in force. Should any difficulty arise, His Holiness and His Majesty reserve to themselves the right of conferring together thereupon.

XXXI. The present Convention shall supersede all laws, ordinances, and decrees hitherto made in the Kingdom of the Two Sicilies on religious matters.

XXXII. It having been represented to His Holiness, in the name of His Majesty the King, that the Convention of the year 1741, owing to the present necessities of the churches of the kingdom on this side of the straits, and to the effects arising from hostile invasion, did not provide with sufficient amplitude against those evils which it is absolutely necessary to cure, and it being necessary to provide also for the kingdom beyond the straits, which was not included in that Convention; and moreover, inasmuch as one single kingdom having been formed of the dominions both on this and on the other side of the straits, it becomes advisable to establish one uniform rule to be observed in all the churches of the kingdom, by the consent of both parties, the present Convention is substituted for the former.

XXXIII. The two Contracting Parties promise for themselves and their successors, that they will faithfully observe on both sides everything which is agreed to in these Articles.

XXXIV. The exchange of the ratifications of this Convention shall take place at Rome, within fifteen days from the date affixed to these Articles.

XXXV. After the ratification of this Convention, the execution of the same shall be entrusted to two persons of high character, one of whom to be named by His Holiness, and the other by His Majesty the King; and they shall be furnished by the respective Contracting Parties with the necessary and proper powers.

In testimony whereof the aforesaid Plenipotentiaries have signed the present Convention, and sealed it with their seals.

Given at Terracina, on the 16th day of February, 1818.

(L.S.)

ERCOLE CARDINAL CONSALVI.

(L.S.)

CAV. LUIGI DE' MEDICI.

Inclosure 2 in No. 26.

Decree respecting the Affixing the Royal Exequatur to Bulls or Communications from Rome.

(Translation.)

Ferdinand II, &c.

WE being desirous that throughout our kingdom a free and prompt execution should be given to all the bulls, briefs, and communications of the Court of Rome, and wishing for that purpose to give the necessary orders for the prompt execution of the said communications in all our dominions:

Having considered Articles XVIII* and XX, No. 11 of our Law of December 22, 1816, and Article XXIII of the Concordat lately made between us and the Holy See:

We have resolved to decree, and do decree as follows:

Art. I. The circulars, laws, and decrees respecting the necessity of obtaining our permission before applying to Rome, known under the name of *Liceat Scribere*, are repealed.

Art. II. From this day forward for the affixing of our Royal exequatur, without any longer having recourse to us through the Royal Office of the Secretary and Minister of State for Ecclesiastical Affairs, as has hitherto been practised, it shall suffice that the bulls, briefs, and other communications of the Court of Rome for which our Royal exequatur has hitherto been necessary, shall be shown to the Supreme Council of our Chancery charged with the affixing the said Royal exequatur, the demands being addressed to our Chancellor.

Art. III. The first Chamber alone of our said Supreme Council shall provide, without delay, and in preference to every other affair, for the affixing of the Royal exequatur.

Art. IV. When no doubts occur, the said Chamber shall affix to the back of the said demand, the Royal exequatur, with the forms and clauses which it has been always the custom to introduce; but should any doubts occur, whether arising from the memorials exhibited by the parties interested, or whether in the Chamber itself, the said Chamber shall promptly lay its opinion before us for our decision.

Art. V. Our Councillor Secretary of State and Chancellor is charged with the execution of the present decree.

Naples, April 6, 1818.

(Signed)

FERDINAND.

The Secretary of State and Councillor,

(Signed)

MARCHESE TOMMASI.

*Art. XVIII. The parties interested may lay before the Chambers their arguments in writing, all discussions and speeches of advocates being expressly prohibited.

Art. XX. They shall be referred to the examination of the Supreme Council of the Chancery, or of one of its Chambers, according as we shall judge most convenient for our royal service, and for the good and advantage of our beloved subjects.

No. 11. All the Aets relating to the exercise of the regalia of the Royal Exequatur.

N.B.—It is to be observed, that the Supreme Council of Chancery before mentioned has been suppressed, and its functions are exercised by a Council of State established in its stead.

SPAIN.

No. 27.

Lord Howden to Viscount Palmerston.—(Received December 23.)

My Lord,

Madrid, December 15, 1850.

UNDER present circumstances in England, I have conceived that it may not be deemed uninteresting or irrelevant by your Lordship to know the steps taken in this Catholic country by Catholic Kings, to restrict the power of the Pope in their dominions.

I consequently have the honour to inclose herewith copies and translations of the same.

I have, &c.
(Signed) HOWDEN.

Inclosure 1 in No. 27.

Law of Philip II, 1565. (Ley 4, Titulo 17, Libro I.)

POR derecho y antigua costumbre, y justos titulos y concesiones apostolicas, somos patronos de todas las iglesias catedrales de estos reinos, y nos pertenece la presentacion de todas los arzobispados, obispados, prelacias, y abadias consistoriales de estos reinos, aunque vaquen en Corte de Roma.

(Translation.)

BY right and ancient custom, by just title and apostolical concessions, we are the patron of the cathedral churches of these kingdoms; and to us belongs the right of presentation to all archbishoprics, bishoprics, prelaties, and consistorial abbeys of these kingdoms, notwithstanding right of possession may be vested in the Court of Rome.

Inclosure 2 in No. 27.

Law of Charles III, 1768. (Ley 9, Titulo 3, Libro II.)

MANDO se presentan en mi Consejo, antes de su publicacion y uso, todas las bulas, breves, rescriptos, y despachos de la Curia Romana, que contuviesen ley, regla, ó observancia general para su reconocimiento, dandoles el pase para su ejecucion en cuanto no se opengan á las regalías, concordatos, costumbres, leyes, y derechos de la nacion o no induzcan en ella novedades perjudiciales

(Translation.)

I ORDAIN that all bulls, briefs, rescripts, and despatches of the Curia Romana, which may contain law, rule, or general observance, are

to be presented at my Council for examination before their publication and use, giving the necessary orders for their being carried into effect so long as they are not in opposition to the royal privileges, concordats, customs, laws, and rights of the nation, and do not cause prejudicial changes.

No. 28.

Lord Howden to Viscount Palmerston.—(Received January 3, 1851.)

(Extract.)

Madrid, December 24, 1850.

IN receiving my despatch of the 15th instant, your Lordship will have seen that I somewhat anticipated your Lordship's instructions. I now send some further details on the subject to which your Lordship's despatch refers.

You are probably aware that there is a Concordat in process of negotiation at this moment between the Courts of Madrid and Rome. The exact purport of this Concordat is kept secret.

The basis, therefore, of ecclesiastical law, as regards preferment, in Spain, is still the Concordat passed in the year 1753, between King Ferdinand VI and Pope Benedict XIV. I inclose herewith a copy and translation of it. The copy is in a work of a very learned jurist, Señor Mayans y Siscar, accompanied by notes, which are worthy your Lordship's attention, and of which I have marked the prominent parts. I also send a paper drawn up with great attention by Mr. Otway, Secretary to this Mission, on the state of ecclesiastical affairs in this country, from the reign of Philip II to the present time.

It is a general but a very mistaken idea, to suppose that the Royal power in Spain has been always overridden by that of the Church. The fact is very much the contrary. The Government of Spain, from the earliest times, has asserted the exercise of a very free prerogative in ecclesiastical matters, and opposed the Pope in times when there was some courage and enlightenment in so doing. Alonso X, as early as the beginning of the thirteenth century, speaks of the manner in which bishops are to be elected, and which seems identical with our own *congé d'élire*, had it not become a fiction. The bishop was chosen by the Dean and Chapter (*El Dean y los canónigos*), and then presented to the King, and there is no mention made whatever of Papal confirmation. Indeed, the great civil liberty of old Spain could hardly have existed, if the country had been directly under any foreign influence like that of Rome. In Aragon the freedom from this influence is very remarkable. In the twelfth century the Kings of Aragon were the protectors of the Albigenses. In the great schism of the West, Pedro IV sustained the party which the Catholics regard as schismatic; and down to the time of Charles V, the whole of the Neapolitan Princes of the House of Aragon may be said to have lived in a state of permanent hostility with the Pope.

The introduction of the Inquisition into the South of Spain and Castile (it was long resisted in Aragon, and the first Inquisitor sent there was killed) tended no doubt to diminish the spiritual independence of Spain, and smooth the way for Papal aggression; but in the establishment of this new engine of power, there was nearly as much political as religious calculation; and although there were fiscal reasons besides, which made it convenient for Ferdinand the Catholic, the Emperor Charles, and Philip II, to be on good terms with the Pope, who allowed them at times to raise subsidies on tithes and church property, in their financial distresses, yet there was an unbroken distrust of the Vatican, and a very evident appreciation of its essential spirit of encroachment.

In the year 1568, in consequence of some attempts by the Pope to invade the old prerogative of Spain, Philip II declared, that as Sovereign, he had a right to present to all the archbishops, bishoprics and prelacies in Spain. I have sent your Lordship the text of this declaration in a former despatch.

It was but a more solemn manifestation of the right that had been always claimed and supported, more or less, by the Kings of Spain, of presenting to Rome the bishops that were to be there confirmed. In the Concordat of 1753, of which I shall speak presently, this claim was fully and formally allowed by the Pope, who received in return from the King of Spain, as a spontaneous concession, the nomination to fifty-two benefices in different towns and chapters, which are enumerated in the body of the instrument.

But of all the Spanish Monarchs, the one who in modern times did most, or rather wished to do most, to assert the independence of the Crown, was Charles III, who though an enemy to England, from early associations, has left proofs of his capacity for reigning, which every one must acknowledge.

The question of Papal bulls not having been fully treated, or clearly fixed in the Concordat concluded in the reign of his predecessor, Ferdinand, Charles III declared by a law (the words of which I likewise transmitted to your Lordship in my despatch of the 15th instant), that no bull could be allowed to have force, or even circulation, in the Kingdom of Spain, unless it had been examined by the Council of State and received its "exequatur."

The Crown of Spain believes itself to be invested with a right, dating from the time of John II, called the "*Potestad economica*," by which it can seize on the revenues and temporalities of seditious or recalcitrant bishops, and even send them out of the country; this right is also extended by some jurisconsults to the power of suppressing monasteries and all sorts of religious communities. It has been rarely executed, and would doubtless be a subject of grave controversy, but it is asserted as inherent in the prerogative of the Spanish Crown.

Following the measure of resistance in Spain, Rome has never ceased to put forward pretensions in the realization of which she sometimes succeeded and sometimes failed, and it was very evident how necessary it was, if possible, to come to some understanding on the vexed topic of Papal and Sovereign rights. The French branch of Sovereigns had brought with it a recollection of very many important immunities of the Gallican Church, which had been secured by law. The successor of Philip V, though a weak Prince, was blest with wise Ministers, and a negotiation for a Concordat was entered into, but its conclusion was attended with difficulty, for the head of the Roman Catholic Church was unwilling to consign formally, in a permanent document, franchises which till then had been exerted, or asserted, or modified, or suspended, according to the idiosyncracies, more or less devotional or energetic, of the Monarchs sitting on the Throne of Spain.

However, the Concordat was concluded and promulgated in the year 1753, and remains to this day the law of Spain in matters relating to the prerogative of the Crown in ecclesiastical matters.

After the death of Ferdinand VII, the Court of Rome did not conceal its sympathies for the cause of the Carlists. There were, besides, some circumstances, as the massacre of the monks, and some unwise acts, as a quarrel with the Nuncio, which gave some colour to the Pope's tendencies, and he refused to give the confirmatory investiture to the bishops proposed by the Government of Isabella II.

A sort of underhand negotiation was afterwards carried on with Rome, and His Holiness offered to give the required confirmation on condition that the clause specifying the Royal presentation was left out, and the phrase "*motu proprio et benignitate Sanctæ Sedis*" was inserted in its place. This pretension was energetically and properly resisted, as it attacked one of the most important prerogatives of the Sovereign, and one that had never ceased to be considered so through the whole history of the Spanish succession.

This state of things lasted till the final recognition of Isabella by the Pope in 1848. It is evident that the attack was made by Rome, rather against the person on the Throne, than against the prerogative of the Crown.

It is worthy of remark, in reference to the organization of the Catholic

hierarchy in England, that there have been various attempts to introduce Vicars-Apostolic into Spain, possessing extraordinary powers and a peculiar ecclesiastical jurisdiction, but the Government of Spain have never subscribed to this proposal, preferring bishops with their ordinary attributions.

The mode of the nomination of bishops in Spain at the present day is this: according to immemorial custom, the Concordat of 1753, and existing law, the ecclesiastics intended to be made bishops are presented by the Sovereign, and confirmed by the Pope, who gives them what is technically called the canonical investiture, and through which he is supposed to delegate to them their spiritual authority.

With regard to Papal bulls, edicts and rescripts, the following are the rules in vigour. Your Lordship will see what minute care has been taken to provide against abuse, or any sudden display of power, or appeal to religious conscience, which might embarrass the Government.

There is only one sort of precept emanating from the Court of Rome which can pass without the knowledge and sanction of the Spanish Government.

Such documents are called briefs of "Penitenciaria," and on account of the secret character of confession, and of the intimate nature of the relationship between the confessor and his penitent, pardons so conveyed, with the conditions on which they are granted, are not inquired into by the State.

With the above exception, it is forbidden for any application to be made by any person to the Papal See, for any sort of grace, be it what it may, unless through the Government and its Representative in Rome.

In order that any bull or rescript be even examined prior to its publication, it is necessary that it should arrive in Spain countersigned by a Spanish agent in Rome, called the "Agente de Preces," in order to show that the said bull or rescript has been obtained through the channel of the Spanish Government, and not through individual application.

When the bulls, or rescripts, or briefs, arrive in Spain, they are delivered over for examination to the section of justice of the "Consejo Real" (formerly of the Consejo de Castilla), to see that in them there is no sudden or unauthorized alteration of the received canonical rules, or of the civil laws, or of the royal prerogatives (*regalias de la Corona*). If the Council finds no objection to the publication and execution of the document, it receives what is called here the "Pasé," which is the exequatur; and to this formula of approbation, should there still linger any particle of doubt or distrust as to the meaning or tendency of the brief, the following clause is appended: "In as far as it is not opposed to the privileges, concordats, customs, laws and rights of the nation, and does not introduce any harmful novelties."

When a bull, rescript, brief, or other document coming from Rome, is found to be "contrary to the privileges, concordats, customs, laws, and rights of the nation," or any one of these, either at different times, it has been quietly put aside, or if it was an object to either party, it has been sent back to the Representative of Spain at Rome, to be remodelled, or modified, or retracted.

So strenuous and precise is the opposition in Spain to any unauthorized exercise of Papal power, that any judge of a Royal court can at once seize any bull or brief that has not received the necessary approbation; and there are specific penalties enumerated in the Criminal Code, applicable to all persons who are accessory to this circulation or execution, or accomplishment of such bulls or other papal rescripts unsanctioned by the Crown.

Inclosure 1 in No. 28.

Concordat between Spain and the Court of Rome, of January 17, 1753.

Benedicto Papa XIV ad perpetuam rei memoriam.

HABIENDO tenido siempre la santidad de nuestro Beatísimo Padre Benedicto Papa XIV, que felizmente rige la Iglesia, un vivo deseo de mantener toda la mas sincera y cordial correspondencia entre la Santa Sede y las naciones, Principes y Reyes Católicos, no ha dejado de dar continuamente señales segurísimas y bien particulares de esta su viva voluntad hácia la esclarecida, devota y piadosa nacion Española y hacia los Monarcas de las Españas, Reyes Católicos por título y sólida religion, y siempre afectos á la Sede Apostólica y al Vicario de Jesucristo en la tierra.

Por tanto, habiéndose tenido presente que en el último Concordato, estipulado el día 18 de Octubre de 1737, entre Clemente Papa XII, de santa memoria, y el Rey Felipe V, de gloriosa memoria, se habia convenido en que se deputasen por el Papa y el Rey, personas que roconociesen amigablemente las razones de una y otra parte, sobre la antigua controversia del pretendido real patronato universal, que quedó indecisa, no omitió Su Santidad, desde los primeros pasos de su Pontificado, hacer sus instancias con los dos, al presente difuntos Cardenales, Belluga y Acuavia, á fin de que obtuviesen de la Corte de España la deputacion de personas con quienes se pudiese tratar el punto indeciso; y sucesivamente para facilitar su exámen, no dejó Su Santidad de unir en un escrito suyo, que entregó á los expresados dos Cardenales, todo aquello que creyó conducente á las intenciones y derechos de la Santa Sede.

Pero habiéndose reconocido por la práctica, que no era este el camino de llegar al deseado fin, y que por los escritos y respuestas se estaba tan lejos de allanar las disputas, que antes bien se multiplicaban, suscitándose controversias que se creian olvidadas, en tanto extremo, que se hubiera podido temer un infeliz rompimiento pernicioso y fatal á una y otra parte; y habiendo tenido pruebas seguras de la piadosa propension del ánimo del Rey Fernando VI, que felizmente reina, á un equitativo y justo temperamento sobre las diferencias promovidas, y que se iban siempre aumentando, á lo que igualmente se hallaba propenso con pleno corazon el deseo de su beatitud, ha creído Su Santidad que no se debia malograr una ocasion tan favorable para establecer una concordia que se expresa en los capítulos siguientes, los cuales se pondrán despues en forma auténtica, y serán firmados por los Procuradores y Plenipotenciarios de ambas Partes, en el modo que se acostumbra hacer en semejantes Convenciones.

Habiendo expuesto la Magestad del Rey Fernando VI á la Santidad de nuestro Beatísimo Padre la necesidad que hay en las Españas de reformar en algunos puntos la disciplina del clero secular y regular, promete Su Santidad, que propuestos los capítulos sobre que se debiere tomar la providencia necesaria, ao se dejará de ejecutar así segun lo establecido en los sagrados Cánones, en las Constituciones Apostólicas y en el Santo Concilio de Trento; y si esto sucediese, como lo desea sumamente, en tiempo de su Pontificado, promete, y se obliga, no obstante la multitud de otros negocios que le oprimen, y sin embargo tambien de su edad muy avanzada, á interponer para el feliz éxito toda aquella fatiga personal que in minoribus, tantos años ha, interpuso en tiempo de sus predecesores en las resoluciones de las materias establecidas en la Bula "Apostolici ministerii," en la fundacion de la Universidad de Cervera, en el establecimiento de la insigne Colegiata de San Ildefonso, y en otros importantes negocios pertenecientes á los Reinos de las Españas.

No habiendo habido controversia sobre la pertenencia á los Reyes Católicos de las Españas, del real patronato, ó sea nómina á los arzobispados, obispados, monasterios y beneficios consistoriales, es á saber, escritos y tasados en los libros de cámara, cuando vacan en los Reinos de las Españas, hallándose apoyado su derecho en bulas y privilegios apostólicos, y en otros títulos alegados por ellos, y no habiendo habido tampoco controversia sobre las nóminas de los Reyes Católicos á los arzobispados, obispados y beneficios que vacan en los Reinos de Granada y de las Indias, ni

tampoco sobre la nómina de algunos otros beneficios, se declara deber quedar la real corona en su pacífica posesion de nombrar en el caso de las vacantes, como lo ha estado hasta aquí; y se conviene en que los nominados á los arzobispados, obispados, monasterios y beneficios consistoriales, deban tambien en lo futuro continuar la expedicion de sus respectivas bulas en Roma, en el mismo modo y forma practicada hasta aquí, sin innovacion alguna.

Pero habiendo sido graves las controversias sobre la nómina á los beneficios residenciales y simples que se hallan en los Reinos de las Españas, exceptuados, como se ha dicho, los que estan en los Reinos de Granada y de las Indias, y habiendo pretendido los Reyes Católicos el derecho de la nómina en virtud del patronato universal, y no habiendo dejado de exponer la Santa Sede les razones que creia militaban por la libertad de los mismos beneficios, y su colacion en los meses apostólicos y casos de las reservas, y así respectivamente por la de los ordinarios en sus meses; despues de una larga disputa, se ha abrazado finalmente de comun consentimiento, el temperamento siguiente.

La Santidad de nuestro Beatísimo Padre Benedicto Papa XIV reserva á su privativa libre colacion, á sus sucesores y á la Sede Apostólica perpetuamente cincuenta y dos beneficios, cuyos títulos serán expresados inmediatamente, para que así Su Santidad como sus sucesores tengan el arbitrio de poder proveer y premiar á los eclesiásticos Españoles, que por probidad é integridad de costumbres, ó por insigne literatura, ó por servicios hechos á la Santa Sede se hicieren beneméritos: y la colacion de estos cincuenta y dos beneficios deberá ser siempre privativa de la Santa Sede, en cualquiera mes y en cualquiera modo que vaquen, aun por resulta real, y tambien aunque alguno de ellos se hallase tocar al real patronato de la Corona; y aunque estuviesen sitos en diócesis donde algun Cardenal tuviese cualquiera ámplio indulto de conferir, no debiendo en manera alguna ser este atendido en perjuicio de la Santa Sede; y las bulas de estos cincuenta y dos beneficios deberán expedirse siempre en Roma, pagándose los acostumbrados emolumentos debidos á la dataria y Chancilleria Apostólica, segun los presentes estados, y todo esto sin imposicion alguna de pension y sin exacion de cédulas bancarias, como tambien se dirá abajo. Y los nombres de los cincuenta y dos beneficios son los siguientes:

En la catedral de Avila, el arcedianato de Arévalo.

En la de Orense, el arcedianato de Bubal.

En la de Barcelona, el priorato, antes secular, ahora regular de la colegiata de Santa Ana.

En la de Búrges, maestrescolia, y el arcedianato de Palenzuela.

En la de Calahorra, el arcedianato de Nájera y la tesorería.

En la de Cartagena, la maestrescolía, y en su diócesis el beneficio simple de Albacete.

En la catedral de Zaragoza, el arciprestazgo de Daroca y el arciprestazgo de Belchite.

En la de Ciudad-Rodrigo, la maestrescolía.

En la de Santiago, el arcedianato de la Reina, el arcedianato de Santa Tesia y la tesorería.

En la de Cuenca, el arcedianato de Alarcon y la tesorería.

En la de Córdoba, el arcedianato de Castro, y en su diócesis el beneficio simple de Belalcazar, y el préstamo de Castro y Espejo.

En la de Tortosa, la sacristía y la hospitalaría.

En la de Gerona, el arcedianato de Ampurdán.

En la de Jaen, el arcedianato de Baeza, y en su obispado el beneficio simple de Arjonilla.

En la de Lérida, la preceptoría.

En la de Sevilla, el arcedianato de Jerez, y en su diócesis el beneficio simple de la Puebla de Guzman, y el préstamo de la iglesia de Santa Cruz de Ecija.

En la de Mallorca, la preceptoría, y la prepositura de San Antonio Viennense.

Nullius, en el Reino de Toledo, el beneficio simple de Santa María de la ciudad de Alcalá la Real.

En el obispado de Orihuela, el beneficio simple de Santa María de Elche.

En la catedral de Huesca, la chantría.
 En la de Oviedo, la chantría.
 En la de Osma, la maestrescolía y la abadía de San Bartolomé.
 En la de Pamplona, la hospitalaría, antes regular, ahora encomienda,
 y la preceptoría general de Olite.
 En la de Plasencia, el arcedianato de Medellin y el de Trujillo.
 En la de Salamanca, el arcedianato de Monleon.
 En la de Sigüenza, la tesorería y la abadía de Santa Coloma.
 En la de Tarragona, el priorato.
 En la de Tarazona, la tesorería.
 En la de Toledo, la tesorería, y en su diócesis el beneficio simple de Ballecas.

En la diócesis de Tuy, el beneficio simple de San Martin de Rosal.
 En la catedral de Valencia, la sacristía mayor.
 En la de Urgel, el arcedianato de Andorra.
 En la de Zamora, el arcedianato de Toro.
 Para reglar bien despues las colaciones, presentaciones, nóminas é instituciones de los beneficios que vacaren en adelante en los dichos Reinos de las Españas, se conviene:

En primer lugar. Que los arzobispos, obispos y coladores inferiores deban continuar en lo venidero en proveer los beneficios que proveian por lo pasado, siempre que vaguen en sus meses ordinarios de Marzo, Junio, Setiembre y Diciembre, aunque se halle vacante la silla apostólica, y tambien que en los mismos meses y en el mismo modo prosigan en presentar los patronos eclesiásticos los beneficios de su patronato, exclusas las alternativas de meses en las colaciones que antecedentemente se daban, y que no se concederán jamas en adelante.

II. Que las prebendas de oficio que actualmente se proveen por oposicion y concurso abierto, se confieran y expidan en lo venidero en el propio modo y con las mismas circunstancias que se han practicado hasta aquí, sin la menor innovacion en cosa alguna, ni que tampoco se innove nada en órden á los beneficios de patronato laical de particulares.

III. Que no solo las parroquias y beneficios curados se confieran en lo futuro como se han conferido en lo pasado por oposicion y concurso cuando vaguen en los meses ordinarios, sino tambien cuando vaguen en los meses y casos de las reservas, aunque la presentacion fuese de pertenencia real; debiéndose en todos estos casos presentar al ordinario el que el patrono tuviere por mas digno entre los tres que hubieren sido aprobados por idóneos, por los examinadores sinodales ad curam animarum.

IV. Que habiéndose ya dicho arriba que deba quedar ileso á los patronos eclesiásticos el derecho de presentar á los beneficios de sus patronatos en los cuatro meses ordinarios, y habiéndose acostumbrado hasta ahora que algunos cabildos, rectores, abades y cofradías erigidas con autoridad eclesiástica, recurran á la Santa Sede para que las elecciones hechas por ellos sean confirmadas con bula apostólica, no se entienda innovada cosa alguna en este caso, sino que todo quede en el pie en que ha estado hasta aquí.

V. Salva siempre la reserva de los cincuenta y dos beneficios, hecha á la libre colacion de la Santa Sede, y salvas siempre las declaraciones poco antes expresadas, Su Santidad para concluir amigablemente todo lo restante de la gran controversia sobre el patronato universal, concede á la Magestad del Rey Católico y á los Reyes sus sucesores, perpétuamente, el derecho universal de nombrar y presentar indistintamente en todas las iglesias metropolitanas, catedrales, colegiadas y diócesis de los Reinos de las Españas, que actualmente posee, á las dignidades mayores post Pontificalem, y otras en catedrales y dignidades principales, y otras en colegiadas, canonicatos, porciones, prebendas, abadías, prioratos, encomiendas, parroquias, personatos, patrimoniales, oficios y benficios eclesiásticos seculares y regulares, cum cura, et sine cura, de cualquiera naturaleza que sean, que al presente existen y que en adelante se fundaren, sin que los fundadores se reserven en sí y en sus sucesores el derecho de presentar en los dominios y reinos de las Españas, que actualmente posee el Rey Católico, con toda la generalidad con que se hallan comprendidos en los meses apostólicos y casos de las reservas generales y especiales,

y del mismo modo tambien en el caso de vacar los beneficios en los meses ordinarios, cuando vacan las sillas arzobispaes y obispaes, ó por cualquiera otro título.

Y á mayor abundamiento en el derecho que tenia la Santa Sede, por razon de las reservas de conferir en los Reinos de las Españas los beneficios, ó por sí, ó por medio de la dataría, Chancillería Apostólica, Nuncios de España é indultarios, subroga á la Magestad del Rey Católico y Reyes sus sucesores, dándoles el derecho universal de presentar á dichos beneficios en los reinos de las Españas que actualmente posee, con facultad de usar en el mismo modo que usa, y ejerce lo restante del patronato perteneciente á su real corona; no debiéndose en lo futuro conceder á ningun Nuncio Apostólico en España, ni á ningun cardenal ú obispo en España, indulto de conferir beneficios en los meses apostólicos, sin el expreso permiso de Su Magestad ó de sus sucesores.

VI. Para que en lo venidero proceda todo con el debido sistema, y en cuanto sea posible se mantenga ilesa la autoridad de los obispos, se conviene en que todos los que se presentaren y nombraren por Su Magestad Católica y sus sucesores, á los beneficios arriba dichos, aunque vacaren por resulta de provisiones reales, deban recibir indistintamente las instituciones y colaciones canónicas de sus respectivos ordinarios, sin expedicion alguna de bulas apostólicas, exceptuada la confirmacion de las elecciones que arriba quedan expresadas, y exceptuados los casos en que los presentados y nombrados, ó por defecto de edad, ó por cualquiera otro impedimento canónico, tuvieren necesidad de alguna dispensa ó gracia apostólica, ó de cualquiera otra cosa superior á la autoridad ordinaria de los obispos, debiéndose en todos estos casos y otros semejantes, recurrir siempre en lo futuro á la Santa Sede, como se ha hecho por lo pasado, para obtener la gracia ó dispensacion, pagando á la dataría y Chancillería Apostólica los emolumentos acostumbrados, sin imposicion de pensiones ó exaccion de cédulas bancarias, como tambien so dirá en adelante.

VII. Que para el mismo fin de mantener ilesa la autoridad ordinaria de los obispos, so conviene y se declara, que por la cesion y subrogacion en los referidos derechos de nómina, presentacion y patronato, no se entienda conferida al Rey Católica ni á sus sucesores jurisdiccion alguna eclesiastica, sobre las iglesias comprendidas en los expresados derechos, ni tampoco sobre las personas que presentáre y nombráre para las dichas iglesias y beneficios, debiendo así estas, como las otras, á quienes fueren conferidos por la Santa Sede los cincuenta y dos beneficios reservados, quedar sujetas á sus respectivos ordinarios, sin poder pretender exencion de su jurisdiccion, y salva siempre la suprema autoridad que el Pontífice Romano, como pastor de la Iglesia universal, tiene sobre todas las iglesias y personas eclesiásticas, y salvas siempre las reales prerogativas que competen á la Corona, en consecuencia de la real proteccion, especialmente sobre las iglesias del real patronato.

VIII. Habiendo considerado Su Magestad Católica, que quedando la daturía y Chancillería Apostólica, por razon del patronato y derechos cedidos á Su Magestad y á sus sucesores, sin las utilidades de las expediciones y annatas, sería grave el menoscabo del erario Pontificio, se obliga á hacer consignar en Roma á título de compensacion por una sola vez, á disposicion de Su Santidad, un capital de trescientos y diez mil escudos romanos, que á razon de un tres por ciento producirá anualmente nueve mil y trescientos escudos de la misma moneda, en cuya cantidad se ha regulado el producto de todos los derechos arriba dichos.

Habiéndose originado en los tiempos pasados alguna controversia sobre algunas provisiones hechas por la Santa Sede en las Catedrales de Palencia y Mondoñedo, la Magestad del Rey Católico conviene, en que los provistos entren en posesion despues de la ratificacion del presente Concordato. Y habiéndose tambien suscitado nuevamente con motivo de la pretension del real patronato universal, la antigua disputa de la imposicion de pensiones y exaccion de cédulas bancarias; así como la santidad de nuestro Beatísimo Padre para cortar de una vez las contiendas que de cuando en cuando se suscitaban, se habia manifestado pronto y resuelto á abolir el uso de dichas pensiones y cédulas bancarias, con el único sentimiento de que faltaría el producto de ellas se hallaría contra su deseo en

la necesidad de sujetar el erario Pontificio á nuevas cargas, respecto de que el producto de estas cédulas bancarias se empleaba por la mayor parte en los salarios y gratificaciones de los ministros que sirven á la Santa Sede en los negocios pertenecientes al Gobierno universal de la Iglesia; así tambien la Magestad del Rey Católico, no menos por su heredada devocion á la Santa Sede, que por el afecto particular con que mira la sagrada persona de Su Beatitud, se ha allanado á dar por una sola vez un socorro, que cuando no en el todo, á lo menos en parte alivie el erario Pontificio de los gastos que está obligado á hacer para la manutencion de los expresados ministros; y así se obliga á hacer entregar en Roma seiscientos mil escudos Romanos, que al tres por ciento producen anualmente diez y ocho mil escudos de la misma moneda, con lo cual queda abolido el uso de imponer en adelante pensiones y exigir cédulas bancarias, no solo en el caso de la colacion de los cincuenta y dos beneficios reservados á la Santa Sede, en el de las confirmaciones arriba expresadas de algunas elecciones, en el de recurso á la Santa Sede para obtener alguna dispensacion concerniente á la colacion de los beneficios, sino tambien en cualquiera otro caso: de tal manera que queda para siempre extinguido en lo venidero el uso de la imposicion de las pensiones y de la exaccion de las cédulas bancarias, pero sin perjuicio de las ya impuestas hasta el tiempo presente.

Habia tambien otro punto de disputa, no ya en órden al derecho de la Cámara Apostolica y Nunciatura de España sobre los espolios y frutos de las Iglesias obispaes vacantes en los reinos de las Españas, sino sobre el uso, ejercicio y dependencias de dicho derecho, de modo que era necesario llegar sobre esto á alguna concordia ó composicion. Para allanar tambien estas continuas diferencias, la Santidad de nuestro Beatísimo Padre, derogando, anulando y dejando sin efecto alguno todas las precedentes constituciones apostólicas y todas concordias y convenciones que se han hecho hasta aquí entre la reverenda Cámara Apostólica, obispos, cabildos y diócesis, y enalquiera otra cosa que sea en contrario, aplica desde el día de la ratificacion de este Concordato todos los espolios y frutos de las Iglesias vacantes exigidos y no exigidos, á los usos pios que prescriben los sagrados cánones, prometiendo que no concederá en adelante por ningun motivo á persona alguna eclesiástica, aunque sea digna de especial ó especialísima mencion, la facultad de testar de los frutos y espolios de sus Iglesias obispaes, aun para usos pios; pero salvas las ya concedidas, que deberán tener su efecto, concediendo a la Magestad del Rey Católico y á sus sucesores, el elegir en adelante los ecónomos y colectores, pero con tal que sean personas eclesiásticas, con todas las facultades oportunas y necesarias, para que bajo de la real proteccion sean fielmente administrados y fielmente empleados por ellos los sobredichos efectos en los expresados usos.

Y Su Magestad en obsequio de la Santa Sede se obliga á hacer depositar en Roma por una sola vez á disposicion de Su Santidad un capital de doscientos y treinta y tres mil trescientos y treinta y tres escudos Romanos, que impuestos al tres por ciento, produce anualmente siete mil escudos de la propia moneda; y ademas de esto concede Su Magestad que se señalen en Madrid á disposicion de Su Santidad, sobre el producto de la cruzada, cinco mil escudos anuales para la manutencion y subsistencia de los Nuncios Apostólicos, y todo esto en consideracion de la compensacion del producto que pierde el erario Pontificio en la referida cesion de los espolios y frutos de las Iglesias vacantes, y de la obligacion de no conceder en adelante facultades de testar.

Su Santidad en fé de sumo Pontífice, y Su Magestad en palabra de Rey Católico, prometen recíprocamente por sí mismos y en nombre de sus sucesores, la firmeza inalterable y subsistencia perpétua de todos y cada uno de los Artículos precedentes, queriendo y declarando, que ni la Santa Sede ni los Reyes Católicos hayan de pretender respectivamente mas de lo que se halla comprendido y expresado en dichos capítulos, y que se haya de tenor por írrito y de ningun valor ni efecto cuanto se hiciere en cualquier tiempo contra todos ó alguno de los mismos Artículos.

Para la validacion y observancia de cuanto se ha convenido, se firmará este Concordato en la forma acostumbrada, y tendrá todo su entero

efecto y cumplimiento, luego que se entregaren los capitales de recompensa que van expresados, y despues que se hiciere la ratificacion.

En fé de lo cual, nos los Infrascriptos, en virtud de las facultades respectivas de Su Santidad y de Su Magestad Católica, hemos firmado el presente Concordato, y sellado con nuestro propio sello, en el Palacio Apostólico del Quirinal, hoy 11 de Enero de 1753.

MANUEL VENTURA FIGUEROA.

S. CARDENAL VALENTI.

(L. S.)

(L. S.)

Y habiendo despues aprobado, confirmado y ratificado el dicho Fernando Rey este Tratado con lo demás que extensamente se contiene en el escrito hecho sobre esto, cuyo tenor queremos se tenga por expresado é inserto en las presentes : de aquí es, que Nos, queriendo ratificar igualmente el preinserto Tratado, y que subsista con estable y perpétua firmeza, y se observe inviolablemente, de nuestro propio motu, cierta ciencia y ánimo deliberado, y con la plenitud de la potestad apostólica, por el tenor de las presentes ratificamos y aprobamos perpétuamente el sobredicho Tratado, aprobado confirmado y ratificado por el referido Rey Fernando, como vá dicho, y en palabra de Pontifice Romano prometemos cumplir y guardar sincera é inviolablemente de nuestra parte y de la dicha Santa Sede las cosas prometidas en el expresado Tratado por el mencionado Silvio Cardenal, nuestro Plenipotenciario y de la referida Sede. Decretando que las presentes letras no puedan ser notadas ó impugnadas en tiempo alguno de vicio de subrepcion, obrepcion, nulidad ó defecto de intencion nuestra, ú otro cualquiera, aunque grande y no pensado, sino que siempre y perpétuamente sean y deban ser firmes, validas y eficaces, y surtan y obtengan sus plenarios é íntegros efectos, y se observen inviolablemente : no obstante cualesquiera constituciones y ordenaciones Apostólicas, y las publicadas en concilios universales, provinciales y sinodales, generales ó especiales, ni en cunto sea necesario nuestras reglas, y de la Chancillería Apostólica de jure quæsito non tollendo, y demas cualesquiera cosas contrarias. A todas las cuales, y á cada una de ellas, teniendo sus tenores por espresados y palabra por palabra insertos en las presentes, y á todas las demas cualesquiera cosas contrarias, derogamos especial y expresamente por esta vez tan solamente para efecto de lo sobredicho, quedando para lo demas en su fuerza y vigor.

Dado en Roma en Santa María la Mayor, bajo del Anillo del Pescador, el dia 20 de Febrero de 1753, de nuestro Pontificado año décimotercio.

D. CARDENAL PASSIONEY.

(Lugar X del Anillo del Pescador.)

(Translation.)

OUR most Holy Father, Pope Benedict XIV, who now happily rules the Church, having always manifested a fervent desire to maintain the most sincere and cordial correspondence between the Holy See and Catholic nations, Princes, and Kings, has never ceased to give the most unequivocal and certain signs of this his earnest wish towards the enlightened and devout Spanish nation, and towards the Monarchs of Spain, Catholic Kings by right and true religion, and ever devoted to the Holy See and to the Holy Vicar of Jesus Christ on earth. Therefore, remembering well that by the last stipulated Concordat of the 18th of October, 1737, between Pope Clement XII, of holy memory, and King Philip V, of glorious memory, it was agreed upon, that persons should be deputed by the Pope and the King to consider amicably the reasons of both parties relative to the ancient controversy of the universal royal patronage which remained undecided, His Holiness did not fail from the first moment of his Pontificate to press the matter upon the now defunct Cardinals Belluga and Aquaviva, in order that they should obtain from the Court of Spain the deputation of persons with whom to treat on the undecided point, and afterwards, to facilitate the examination, His Holiness did not fail to unite in a writing handed over to the two above-mentioned Cardinals, everything conducive to the intentions and the rights of the Holy See.

But perceiving that practically this was not the best method to arrive at the desired object, and that by writings and answers, we were very far from allaying the disputes; on the contrary, that they were being rather multiplied, exciting controversies supposed to be long forgotten, to such a degree, that fears might have been entertained of a rupture unhappy and pernicious to the one or the other of the parties; and having had certain proofs of the pious inclination of King Ferdinand VI towards an equitable and just arrangement respecting the differences in dispute, and which are increasing more and more, and which found an echo in the feelings of the Pope, His Holiness thought that one ought not to allow such a favourable moment to pass for establishing an agreement expressed in the clauses which follow, which clauses will be put into an authentic form, and will be signed by the Procurators and Plenipotentiaries of both parties, according to the mode customary to such conventions.

His Majesty King Ferdinand having laid before the Pope the necessity existing in Spain of reforming in certain points of discipline the clergy, secular and regular, His Holiness promises that on presentation of the clauses relative to the desired reformation, he will see to the execution of it according to the decretals of the sacred canons, of the apostolical constitutions and the Holy Council of Trent; and if this happens, as he much desires it, during the time of his Pontificate, he promises and renders it obligatory upon himself, notwithstanding the multitude of affairs which oppress him, and his advanced age, to labour personally for its happy attainment in the same way that "*in minoribus*," he for so many years laboured during the time of his predecessors towards a settlement of the affairs laid down in the Bull "*Apostolici ministerii*," in the foundation of the University of Cervera, in the establishment of the Collegiate Church of San Ildefonso, and in other important affairs relating to the Kingdom of Spain.

There having been no controversy relative to the right of the Catholic Kings of Spain to the royal patronage or nomination to archbishoprics, bishoprics, monasteries, and consistorial benefices, that is to say, those written down and valued on the books of the Chamber, when they become vacant in the Kingdom of Spain, this right being supported by bulls and Apostolical privileges and other acts; and there having been no controversy relative to the nomination of the Catholic Kings to archbishoprics, bishoprics, and benefices which become vacant in the Kingdoms of Granada and the Indies, nor relative to the "*nomina*" of certain other benefices, it is hereby declared that the Royal Crown remains in peaceable possession of the right to nominate to the vacant places as heretofore; and it is agreed that the nominees to archbishoprics, bishoprics, monasteries, and consistorial benefices, are to continue for the future to receive their respective bulls from Rome, in the same manner and form practised up to the present moment, without any innovation.

But there having been serious controversies relative to the nomination to residentiary and simple benefices existing in the Kingdoms of Spain, excepting as before said those in Granada and the Indies; and the Catholic Kings having brought forward a claim of nomination in virtue of universal patronage, and the Holy See having never ceased to expose its reasons in favour of the liberty of those same benefices and their collation in the Apostolical months and cases of the reserves, as well as that of the ordinary benefices in their months; after a long dispute the following arrangement was finally agreed upon.

His Holiness Pope Benedict XIV reserves for his private and free nomination, for his successors and for the Apostolical See, perpetually, fifty-two benefices, the names of which will be immediately mentioned, in order that His Holiness and his successors may provide for and reward the Spanish ecclesiastics who for probity and purity of manners, or for literary talents, or for services rendered to the State, were deserving of it; and the nomination of these fifty-two benefices are to be always in the bequest of the Holy See, in whatever month and in whatever way they may become vacant, even by royal order; and although any of them may belong to the royal patronage of the Crown, and although they may be situated in a diocese where some Cardinal has full dispensations to confer

—yet this is in no wise to be prejudicial to the Holy See; and the bulls of these fifty-two benefices are to be expedited in Rome in the same manner and form as practised up to the present moment, paying the accustomed emoluments to the Apostolic Chancery, and all this without imposition whatever of the banking rates, as will be noted below. The names of the fifty-two benefices are as follows: (see above)

In order to arrange well for the future, the collations, presentations, nominations and institutions of the benefices which may become vacant in Spain, it is agreed:

I. That the archbishops, bishops, and inferior collators, are to continue for the future in the ministration of the benefices which they have administered, when they become vacant in the ordinary months of March, June, September and December, even though the Apostolic See may be vacant; and also that in the same months and in the same manner, the ecclesiastical patrons are to continue to present to the benefices of their patronage, with the exception of the alternate months in the case of collations formerly given, but which will not be conceded any more.

II. That the prebendary offices which are now actually filled up by election among candidates, are to be filled up for the future in the same way, without the slightest innovation; nor is there to be any innovation in the order of the benefices of lay patronage belonging to individuals.

III. That not only parishes and benefices of a curacy are to be conferred as heretofore, by general election, when they become vacant in the ordinary months, but also when they become vacant in the months and cases of the reserves, although the presentation belongs to the Crown; it being required in all these cases, to present to the ordinary the person who the patron may think most worthy among the three approved of by the synodical examiners “*ad curam animarum.*”

IV. Having said above that the ecclesiastical patrons are to have free right to present the benefices of their patronage in the four ordinary months: and certain chapters, rectors, abbots, and confraternities established by ecclesiastical authority, being accustomed to have recourse to the Holy See, in order that the elections made by them may be sanctioned by Apostolic bull, we ordain that no innovation whatever is to be made, but that everything remain on the same footing that it was.

V. Always excepting the fifty-two benefices placed in the free gift of the Holy See, and always excepting the declarations above mentioned, His Holiness, in order to finish amicably the controversy concerning the universal patronage, concedes to His Majesty and to the Kings his successors perpetually, the universal right to name and present indistinctively, in all the metropolitan churches, cathedrals, collegiates, and dioceses of Spain, to the higher dignities, *post pontificalem*, and to others in cathedrals and principal dignities, to collegiates, canonries, prebends, &c., of whatever kind they may be, which at present or for the future may be founded, if the founders do not reserve to themselves the right to present in the Kingdom of Spain, &c.

And, moreover, by the right which the Holy See possesses by reason of reserves to confer benefices in Spain, either through itself or through the Apostolical Chancery and Nuncios of Spain, it requests His Majesty and the Kings his successors to give them the universal right to present to the said benefices in Spain, with the faculty to make use of it in the same way that the Crown exercises it; no Apostolical Nuncio, or Cardinal, or Bishop, being permitted for the future to grant benefices in the Apostolic months, without the express permission of His Majesty or his successors.

VI. In order that for the future everything may proceed in an orderly manner, and that the authority of the bishops may remain intact, it is agreed that all those who are presented by His Catholic Majesty and his successors to the benefices above mentioned, although they may become vacant by royal ordinances, are to receive without distinction the institutions and canonical collations of their respective ordinaries without Apostolic bulls, excepting the confirmation of the elections above mentioned, and excepting where those named by defect of age or other canonical impediment require some dispensation or Apostolic grace, or anything else superior to the ordinary authority of the bishops, in all these

cases it is necessary to have recourse to the Holy See, paying the customary dues.

VII. For the same end, in order to maintain intact the authority of the bishops, it is agreed that by the cession of the rights of nomination, presentation, and patronage, it is not intended to confer on the King or his successors any ecclesiastical jurisdiction over the churches comprehended in the above-mentioned rights, nor over the persons presented to the said benefices; these as well as the other fifty-two benefices are to remain subject to their respective ordinaries, without pretence to exemption from their jurisdiction, always excepting the supreme authority of the Pontiff, always excepting the royal prerogatives respecting the benefices under royal patronage.

VIII. His Catholic Majesty, considering that the Apostolic Chancery, by reason of the patronage and the rights conceded to the Crown, remains without the benefits of its annats, and that thus the Pontifical Treasury would suffer a diminution, obliges itself once and for all to hand over to His Holiness, a sum of 310,000 Roman scudi, which at the rate of 3 per cent., produces annually 9,300 scudi of the same money, which sum is a compensation for the rights ceded.

There having arisen in times past, some dispute respecting certain provisions made by the Holy See in the Cathedrals of Palencia and Mondoñedo, His Majesty ordains that the holders of benefices shall enter into possession after the ratification of the present Concordat; and there having likewise arisen on the subject of the royal patronage, the ancient dispute on the imposition of pensions and the exaction of banking-rates, His Holiness, to put a stop at once to these disputes, has declared himself ready to abolish the use of the said pensions and banking-rates, regretting only, that failing the products derived from them, His Holiness would not wish to subject the Pontifical Treasury to new burdens, inasmuch as the said funds were employed towards salaries and gratifications to Ministers in the service of the Holy See.

Likewise, His Majesty, from hereditary devotion to His Holiness, has condescended once for all to give an assistance which may partly alleviate the Pontifical Treasury from the burden of maintaining the said ministers, and for this purpose binds himself to deliver in Rome 600,000 Roman scudi, which, at an annual interest of 3 per cent., produces 18,000 scudi of the same money; after which impositions of every kind, without however prejudice to those imposed up to the present moment, are abolished.

There was likewise another dispute, not as to the rights of the Apostolic Chamber and the Nunciature of Spain to the property of prelates and the revenues of the episcopal churches left vacant in the Kingdom of Spain, but as to the use and exercise of those rights. To smooth these differences, His Holiness annuls all Conventions hitherto made, and applies, after the ratification of this Concordat, all property and revenues to the pious uses prescribed by the sacred canons, promising that he will not allow for the future any ecclesiastic, unless worthy of special mention, to dispose of the property of episcopal churches, except for pious purposes, conceding to His Majesty and his successors the right to choose collectors, provided they are ecclesiastics.

And His Majesty binds himself once and for all, to place at the disposition of His Holiness a capital of 233,333 Roman scudi, which, at 3 per cent., produce annually 7000 scudi; and besides this, His Majesty remembers that there is at the disposal of His Holiness, from the product of the Crusade, 5000 scudi annually for the maintenance of Apostolic Nuncios, and all this in consideration of the loss sustained by the Pontifical Treasury in the cession of the revenues, and in the obligation not to allow property to be willed away.

His Holiness the Pope and His Majesty bind themselves to observe every clause of this Treaty.

This Concordat will be signed whenever the indemnities are delivered over.

In faith of which, we, the Undersigned, have signed and sealed the present Concordat.

At the Apostolical Palace of the Quirinal, January 11, 1753.
 MANUEL VENTURA FIGUEROA. S. CARDINAL VALENTI.
 (L. S.) (L. S.)

His Catholic Majesty ratified this Concordat on the 31st of January, 1753, and His Holiness the 20th of February of the same year.

The full-powers of His Majesty Ferdinand VI were given in San Lorenzo Real, on the 17th of October, 1752, to Manuel Ventura Figueroa, Auditor of the Sacred Court for the Crown of Castile. His Holiness Benedict XIV named for his Plenipotentiary, Silvio, called Valenti, Cardinal of the Holy Roman Church.

These full-powers were signed in Rome on the 9th of January, 1753.

Inclosure 2 in No. 28.

Mr. Otway to Lord Howden.

My Lord,

Madrid, December 20, 1850.

I HAVE the honour to transmit to your Lordship herewith, the brief, general, and rapid sketch which you requested me to draw up, relative to the state of relations existing between the Courts of Madrid and Rome, from the time of Philip II to that of the death of Ferdinand VII.

I have, &c.

(Signed) LOFTUS OTWAY.

Inclosure 3 in No. 28.

Historical Sketch of the State of the Relations between Spain and the Court of Rome, from the time of Philip II.

THE Kings of Spain, notwithstanding their being chiefs of an eminently Catholic nation, offer repeated examples of disagreement with the Holy See. At many different epochs we find reproduced complaints, on the part of both Powers, relative to real or supposed intrusions in their respective jurisdictions. It may not possibly be out of place to give a slight historical sketch, so as to make apparent the questions which have more especially originated and sustained discord between both Powers.

Already in the period anterior to the Austrian dynasty, various differences existed between the Court of Rome and the different Spanish Monarchs, chiefly relating to the creation of religious orders, protest against the exemptions and exclusive privileges of the clergy, against the exorbitant number of benefices, against the immense sums of money extracted by the Court of Rome for dispensations, and many other things of this kind. The Kings of Spain, generally speaking, acted with timidity and irresolution, with regard to these complaints on the part of their subjects; and if on any one point they showed decision and energy, it was solely on that relating to the nomination of bishops, as this perhaps more directly touched their sovereign power.

Subsequently to the advent of the Austrian dynasty to the Throne of Spain, and during the reign of Charles V, political wars chiefly absorbed the attention of Spain and of Rome, though not on this account did the abuses on the part of the Holy See cease to exist, nor the hostile pretensions of both Courts to continue, but in that epoch of wars and of conquests, little attention was paid to these matters.

Philip II, notwithstanding his religious fanaticism, endeavoured seriously to set about putting an end to the abuses of the Roman clergy, and, in 1588, created a Board, called "Supremo Consejo de la Cámara,"

whose special business and object was to inquire privately into everything concerning the Royal prerogative with respect to the nomination of bishops. He further commissioned Don Martin de Cordova to examine into the public and private archives, in order to ascertain what rights of the Crown had been usurped by Rome, especially with regard to the filling up the vacant sees. But these measures were not attended with any positive results, and His Majesty's death paralyzed these important investigations, and nothing further was done during the reign of Philip III. In the meanwhile, the Spanish Cortes insisted on making strong representations to the Throne that some remedy should be applied to these evils, and Philip IV at length decided on sending to Rome the celebrated mission composed of Don Juan Chumacero and Don Domingo Pimentel, Bishop of Cordova, who went to Rome in 1633, and laid before Pope Urban VIII, various complaints on the part of the Court of Madrid, and demanded that a reform on various points should be proceeded to. But as they obtained nothing for their mission, the Consejo de Cámara, in virtue of the documents in its possession, energetically seconded the reclamations of the Embassy. The Court of Rome, then, justly alarmed at the position taken up by the Council, employed every possible means at his disposal to silence these complaints, and by making some few and limited concessions, succeeded in silencing the general cry for reform.

Things remained in this state during the reign of Charles II, as might naturally be expected. It was a bad moment to oppose the ambition of Rome, when a weak Prince, subjecting to the exorcisms of a priest, wielded the Spanish sceptre.

The Bourbon dynasty inaugurated, and with it the European war of succession, the Pope, after some years of hesitation, at length declared in favour of the party of the Austrian Archduke. Philip V, who considered this step as a grave offence against his person, in 1709, broke off all communication with the Holy See, carrying his resentment so far as to forbid his subjects addressing themselves to Rome for dispensations and other favours. This incommunication was put an end to by a Concordat, signed at Paris in 1714, agreed upon between the Spanish Minister Marques de la Compuerta, and Cardinal Aldobrandi, Nuncio, it being worthy of remark that, notwithstanding this document having been approved of by Clement II and Philip V, it was never printed or published, nor did the Court of Rome ever execute it, merely approving of it as the only means for renewing the relations between the two Governments, interrupted since 1709. And thus it was replaced by another in 1717, but which also is unknown, having met with the same fate (shelved) as the preceding one. So that its creation was an apparent reconciliation, without either value or result. In the midst of all this, Philip V, instigated by the luminous writings of Don Melchor de Macanaz, entertained daily with greater warmth his project of carrying out a radical reform in ecclesiastical affairs; but the Inquisition, ever disposed to serve Rome, proscribed Macanaz's writings, and the author, to escape persecution, was obliged to leave Spain, and died miserably in France.

Matters were in this state with Rome, when an accidental circumstance again produced an open rupture between that Court and that of Madrid. The Infante Don Carlos having conquered the Crown of the Two Sicilies, an Italian party, fomented and supported by the Court of Vienna, declared against him; and the Pope, on his side, fearing that Philip might acquire over Italy the same preponderance as Charles V, favoured, in as much as he could, the cause of the insurgents. This conduct irritated Philip V excessively, and in consequence thereof, he ordered the Cardinal Aquaviva to leave Rome and to bring with him all the resident Spaniards; and he published various Royal decrees, suspending every species of communication, civil as well as ecclesiastical, with the Holy See.

In August 1736, Fray Gaspar de Molina, with other theologians, was ordered to negotiate a Concordat with Rome, which was signed on the 26th of September, 1737, Clement XII being Pope. This Concordat not being satisfactory, Ferdinand VI, acting under advice of his Minister, Don José de Carbajal, instructed his Ambassador at Rome, Cardinal Portocar-

rero, to negotiate another, and after considerable difficulties, he succeeded at the end of three years. This Concordat was signed the 11th January, 1753, and thereby the question so long agitated about the right of *patronatos* (naming to vacant bishoprics), was for ever settled. The Pope reserved to himself fifty-two benefices marked out in the churches of Spain; and in compensation for the losses which the Pontifical Treasury was about to sustain from the cessation of duties on "breves" and "anatos," more than 22,000,000 of reales were paid to him. This was the basis on which was founded the partial arrangement of all the points relating to the question of the vacant bishoprics, points which it would not be possible to mention in detail, but which will be found in the Concordat itself.

These are the only two Concordats which, up to this day (one is said to be now negotiating) bind Spain to Rome. Since then, and particularly in the time of Charles III, the relations with Rome have occasionally undergone changes. This Monarch, in consequence of a bull issued by the Pope against the Government of Parma, considered his royal prerogatives as attacked, and ordered the bull to be seized, as also all other despatches from Rome; but these dissensions were not of long duration, and harmony was soon re-established.

In the time of Charles IV and Ferdinand VII, little can be said as to any prominent or striking event in the relations between Spain and Rome.

We now come to our own epoch, in which occurred a most serious difference with Rome. Soon after the death of Ferdinand VII, Cardinal Amat de San Felipe, Archbishop of Nicea, had arrived at Madrid in the room of the Nuncio, Cardinal Fiberni. The Pope's brief accrediting him was still in the hands of the Council of Castile to be countersigned, as prescribed by law, when Ferdinand VII died. In these cases it is a constant practice of all Governments to renew the credentials of their Diplomatic Agents. In consequence of this usage, Cardinal Amat could not be presented, because his letters, although approved by the Council, required to be renewed by the Pope. But this renewal was never effected, and from that moment relations between the two Courts may be considered as having ceased. The Spanish Government lost no time in communicating to the Pope Ferdinand's death, and the proclamation of his daughter, sending him a copy of the Pragmatic Sanction of 31st March, 1830, and adding that, in virtue of this document, Queen Isabella had been recognized by all classes of the nation as legitimate Queen. To this the Holy Father replied with the usual compliments of condolence, with regard to Ferdinand, but added he ought to abstain from recognizing his daughter, as he could not admit the Pragmatic as a decisive document in the question. After some further correspondence, political relations were broken off, and Cardinal Fiberni left Madrid. Subsequently, many bishops in Spain having died, and the Government, in virtue of the right of presentation consigned in the Concordats, named the individuals it thought worthy to fill the vacant sees; the Pope replied, that not having recognized Isabella II, he could not confirm the bishops presented by her Government, as such an act would imply his recognition.

The Spanish Government then had recourse to a strange expedient to get over this difficulty, which was, to propose to the Pope to leave out in the confirmation the clauses mentioning the recognition. This he refused, but added, that on this account he did not for one instant cease to recognize in the Crown of Spain the right of naming to bishoprics, and was ready to declare this in a separate document.

The honour and dignity of the Spanish Government would not allow of its acceding to this proposal, because its acceptance was equivalent to a tacit admission of the illegitimacy of the Queen. The result was a rupture, and on the 23rd of August, 1835, the Archbishop of Nicea received his passports, accompanied by an energetic protest against the Papal Government, making it responsible for the evils which would arrive to the Church in consequence of the breaking off of communications.

L. OTWAY.

Inclosure 4 in No. 28.

Extract from a Report made to Ferdinand VII by Don Tadeo Calomarde, on the question of Papal Rights in Spain.

ESTAS materias de proteccion y de retencion ó revision de los breves y rescriptos de la Curia Romana, la han tratado é ilustrado con un magisterio incomparable los mos sabios letrados juristas, en ambos derechos, á quienes los *Ultramontanos* con la Curia Romana les tienen antigua y encarnizada guerra declarada, y los llaman *Regalistas*, como si perteneciesen á una secta que batalla contra la Iglesia del Señor. Yá vé Vuestra Magestad, que la Curia Romana está siempre en armas para hostilizar las regalías de Vuestra Magestad.

Es cierto que todos los breves y rescriptos de la Curia Romana han de sufrir la revision en este reino, pero no es esclusivamente, Señor, establecido en España este esencial requisito; en todos los reinos Católicos se usa, bajo de diferente denominacion, pero siempre del mismo efecto. Llámase *Pase*, *Placito*, *Exequatur*, *Letras de Pareatis*, ó otras, porque todos los Soberanos gozan de los mismos derechos y tienen los mismos deberes.

No concluiría, Señor, y molestaria demasiadamente la augusta atencion de Vuestra Magestad, si me estendiese con innumerables documentos que confirman los derechos de los Soberanos Españoles en esta materia tan agitada en los tiempos pasados, pero que á virtud de fundamentos incontestables, se ha fijado en el estado actual. La licencia de obtener bulas y rescriptos, no esceptuados en las mismas leyes, la revision de las que, ó por injustas preces, ó por escesos en la concesion, no merecen uso, el *Exequatur Regius* en las corrientes, la autoridad legal de los tribunales colegiados en los recursos de fuerza, todos, todos estos auxilios depositados en la soberania de Vuestra Magestad tienen por objeto y fin necesario el mantenimiento del orden, la tranquilidad del reino, la mas segura exactitud en los acuerdos de la Silla Apostólica contra las demasias de la Curia, unas veces sorprendida otras engañada, y siempre empeñada en estender sus facultades fuera de sus justos limites.

(Translation.)

THESE matters of protection and of retention or revision of the briefs and rescripts of the Roman See, have been treated on and elucidated with incomparable ability by the most learned jurisconsults *in utroque*, against whom the *Ultramontanos* [zealous defenders of the Pope's authority] and the Roman Curia have been long since waging a cruel war, and whom they call *Regalistas* [defenders of the "Regalías," or prerogatives of the Crown], as if they belonged to a sect fighting against the Church of the Lord. Your Majesty is well aware that the Roman Curia is always under arms to oppose your Majesty's prerogatives.

It is true that all briefs and rescripts from the Roman Curia must undergo a revision in this kingdom, but this, Sire, is a requisite not exclusively established in Spain; it is used in all Catholic kingdoms under different names, though always intended for the same purpose. It is called *Pase*, *Placito*, *Exequatur*, *Letters of Pareatis*, or otherwise, because all Sovereigns enjoy the same rights and have the same duties imposed on them.

I should never conclude, Sire, and should unduly occupy your Majesty's attention, were I to enter into details which confirm the rights of Spanish Sovereigns in a matter which has been so much agitated in former times, but which, by uncontrovertible grounds, has been finally fixed in its present state. The permission of obtaining bulls and rescripts,—the revision of those which, on account of unfounded requisitions or of excesses in the concession, ought not to be allowed to pass,—the *Regium Exequatur* for those current,—the legal authority of colleged tribunals on the *Recursos*

de fuerza (appeals against force or violence),—all, all these assistances, deposed in your Majesty's royal prerogative, have for their necessary object and purpose, the preservation of order, the tranquillity of the kingdom, the most scrupulous exactitude in carrying out the decisions of the Apostolic See, and providing against the excesses of the Curia; an authority which is sometimes taken by surprise, sometimes deceived, and always intent on extending its power beyond its just limits.

(Continued.)

SWEDEN.

No. 29.

Mr. Gordon to Viscount Palmerston.—(Received January 20.)

My Lord,

Stockholm, January 9, 1851.

IN reply to your Lordship's despatch of the 12th ultimo, which I had the honour to receive on the 24th, I am enabled now to state that no Concordat or any equivalent arrangement exists between the Swedish Government and the Court of Rome for the governance of the Roman Catholic church in this country. Ever since the time of Charles IX of Sweden, half a century after the Reformation here, it was illegal for a Roman Catholic priest to officiate within the kingdom, up to the period of the visit of Gustavus III to Rome in 1780; when the number of the Romanists having increased in Sweden, the Pope availed himself of the presenee of the King in Rome, to obtain from His Majesty such toleration for Romanism as to allow the performance of public worship, according to its forms, by regularly ordained priests, in Stockholm and Gottenburg. King Gustavus consented to the innovation, but upon doing so, commanded that public worship should be performed at Rome by His Majesty's own chaplain, according to Lutheran forms.

Since the above period the Romanists have enjoyed full toleration in Sweden, but have never had more places of worship than the chapels at Stockholm and Gottenburg; their numbers at both places do not amount to 900, and your Lordship is aware of the severe laws in force there against any conversion from Lutheranism to Romanism.

From the above it will be gathered that no question has ever arisen, since the establishment of Protestantism in this country, of the appointment of a Roman Catholic bishop or bishops here.

But ever since the reign of Gustavus III the Romanist community have been governed by a Vicar Apostolic, who has, I believe, generally held orders as a bishop *in partibus infidelium*, and whose nomination has always been notified to the Swedish Government and local authorities for police purposes. It is not, however, supposed that any obstacle would be raised to the nomination by the Pope even of a bishop deriving his title from a Swedish locality, unless it were found that such proceeding should occasion any public scandal, when most undoubtedly the assumption of such title would be forbidden, under pain of instant deportation from the country.

The Romanist priests in Stockholm and Gottenburg have generally conducted themselves with great prudence and moderation, and this has never been more conspicuous than since the accession of the present Queen of Sweden, who is, however, a very zealous Catholic. On one occasion, the Swedish Government had cause to complain of the proselytizing zeal of a priest attached to the Romanist chapel in Stockholm, and an application being made to the Court of Rome, through the Swedish Diplomatic Agent in Italy, the over active ecclesiastic was recalled from his post. Had this not been done, however, he would most certainly have been ordered by the Government to quit the country.

I have the honour to invite your Lordship's attention to the inclosed correspondence on this interesting case, as it manifests so very different a policy on the part of the Roman Court from that lately pursued in England.

The publication of a Papal bull in Sweden has never been heard of, but no law exists against such documents being read publicly in the Romanist chapels, or even circulated by the press; the Government, however, always re-

serving its right to proceed against any act that might infringe the laws of the press or excite public scandal.

I took the first opportunity that presented itself, after the receipt of your Lordship's despatch, to request Baron Stierneld to supply me with any information in the power of the Swedish Government to furnish, on the points referred to therein. His Excellency readily promised me every assistance, although, from the insignificance of the Romanist community here, he feared the questions proposed by your Lordship could be answered but unsatisfactorily ; but I have this day received from his Excellency the memorandum which I have the honour to inclose herewith, in which reference is made to all the points proposed in your Lordship's despatch, and which I trust may be found serviceable.

The Edict of Toleration which forms one of the inclosures in this memorandum, is a long printed document, and as I hesitate to delay, until it can be translated, my reply to your Lordship's despatch, I have translated only such portions of it as have immediate reference to the subjects it refers to in that despatch, and will transmit a translation of the whole edict by next post.

As Norwegian laws differ from those of Sweden, I wrote immediately, on receipt of your Lordship's despatch, to Mr. Crowe, to desire him to forward, without delay, all the information he could collect on the subject in question, as regards Norway, but I have not yet received an answer from that gentleman.

I have, &c.

(Signed) G. J. R. GORDON.

Inclosure 1 in No. 29.

Memorandum on the subject of the Governance of Roman Catholics in Sweden.

IN n'existe aucun Concordat ou arrangement analogue entre le Gouvernement Suédois et la Cour de Rome, relativement à l'administration de l'Eglise Catholique en Suède. Les droits de cette église, ainsi que de toutes les croyances religieuses autres que la dominante, sont fixés en Suède par l'Ordonnance Royale du 24 Janvier, 1781, généralement connue sous la dénomination de l'Edit de Tolérance, dont un exemplaire se trouve ci-annexé.

Aucun évêque Catholique Romain n'a jamais—depuis le temps de la Réformation—été nommé en Suède. Avant 1781, tout ecclésiastique Catholique, à l'exception des aumôniers d'Ambassade, était exclu du pays ; depuis cette époque l'inspection générale des ecclésiastiques de cette religion est confiée par le Pape à un Vicaire Apostolique. A son arrivée celui-ci doit exhiber les pouvoirs dont il est muni par le Saint Père afin d'obtenir l'exéquatur royal nécessaire pour l'exercice de ses fonctions.

Le Vicaire Apostolique actuel, l'Abbé Studach, a été nommé, après plusieurs années de résidence ici, évêque *in partibus*, mais il ne s'est jamais prévalu de ce titre, et le Gouvernement ne le connaît point comme tel. Cependant il n'existe dans nos lois aucun empêchement pour le Pape de nommer un évêque Catholique en Suède, et même la question si celui-ci pourrait être revêtu d'un titre Suédois, est indécise ; mais comme il dépend du Gouvernement de le recevoir ou non, il est probable qu'un pareil empiétement sur la prérogative Royale aurait pour suite le refus d'admettre un évêque revêtu d'un pareil titre.

Pour ce qui concerne la publication des bulles Papales, il n'est point connu qu'elle ait eu lieu publiquement ; mais les lois existantes ne défendent aucune-ment leur publication en chaire dans l'Eglise Catholique, et même d'après notre loi sur la presse, l'impression et la vente publique de pareils documens ne saurait être prohibée.

Comme il pourrait intéresser le Gouvernement Britannique de prendre connaissance d'une correspondance avec la Cour de Rome au sujet d'un ecclésiastique Catholique en Suède en 1833, on croit devoir joindre à la présente copie d'une dépêche de feu M. le Comte de Wetterstedt à M. de Lagersvård, Ministre du Roi en Italie, du 29 Mars, 1833, ainsi que de la réponse faite à la communication de M. de Lagersvård par le Cardinal Secrétaire d'Etat, Monseigneur Bernetti, en date du 30 Avril même année.

Stockholm, le 9 Janvier, 1851.

(Translation.)

THERE is no Concordat or similar arrangement between the Swedish Government and the Court of Rome relative to the administration of the Catholic Church in Sweden. The rights of that church, as well as of all religious persuasions other than the established one, are regulated by the Royal Ordinance of the 24th of January, 1781, generally known under the name of the Edict of Toleration, a copy of which is hereunto annexed.

No Roman Catholic bishop has, since the time of the Reformation, ever been appointed in Sweden. Before 1781, every Catholic ecclesiastic, with the exception of chaplains to Embassies, was excluded from the country; since that period the general superintendence of the clergy of that religion has been confided by the Pope to a Vicar-Apostolic. On the arrival of such a one he is bound to exhibit the powers given to him by the Holy Father, in order to obtain the royal exequatur necessary for the exercise of his functions.

The present Vicar-Apostolic, the Abbé Studach, was, after several years' residence here, named bishop *in partibus*, but he has never assumed this title, nor do the Government acknowledge him as such. Nevertheless, there is no hindrance in our laws to the appointment by the Pope of a Catholic bishop in Sweden; and the question whether such bishop may be invested with a Swedish title is undecided; but as it depends on the Government whether they choose to receive him or not, it is probable that such an infringement of the royal prerogative would entail a refusal to receive a bishop with such a title.

As regards the publication of Papal bulls, it is not known that such a step has ever publicly taken place; but the existing laws do not forbid their publication from the pulpit in the Catholic Church, and according to our laws of the press, even the printing and sale of such documents cannot be prevented.

As it may interest the British Government to be made acquainted with a correspondence with the Court of Rome, relative to a Catholic ecclesiastic in Sweden in 1833, it is thought expedient to add to this memorandum the copy of a despatch, dated March 29, 1833, from the late Count Wetterstedt to M. de Lagersvärd, Minister of the King in Italy, as well as the answer returned to the communication of M. de Lagersvärd by the Cardinal Secretary of State, Monsignor Bernetti, under date of the 30th April of the same year.

Stockholm, January 9, 1851.

Inclosure 2 in No. 29.

Extracts from the Edict of Toleration of Gustavus III, of January 24, 1781.

(Translation.)

THE Swedish Diet having reserved themselves in agreeing to King Gustavus III's proposals for toleration of other religious professions than the Lutheran, to the effect, amongst other matters:—

“2. That such foreign religionists must not establish, in any part of the kingdom, public school-houses, or places of instruction, for the spread of their doctrine.

“3. That it must not be permitted them to engage, or commission to the above end, missionaries within or without the kingdom.

“4. That convents (*kloster*) may not be established, nor monks tolerated or admitted, of any religion or sect whatsoever.

“6. That the customary public processions and ceremonies of foreign religions must be forbidden, for the avoidance of seductive provocations to perversions and scandal among the more simple.”

The King agreed to these conditions, and added thereto:—

“1. Should any one speak disparagingly of our belief, our divine service, our ecclesiastical regulations, ceremonies or teaching, he must be fined 10 to 50 dollars silver, &c.

“2. He who teaches to any one his (foreign) religious doctrine, or spreads his legends (*legender*), must be fined for the first offence 100 dollars silver, and for the second double.”

But the King provided especially that such foreign religionists should enjoy all civil rights, with some exceptions; should be allowed to build their own churches, after submitting the designs to the proper authorities, and to provide them with bells and graveyards; and further, which bears upon the appointment of bishops of the Romanist community in Protestant countries, His Majesty determined that members of religions other than the State Church establishment, should be allowed, among other things:—

“4. To engage for their congregations their own ordinary teachers of religion.”

And besides, in another series of reservations from complete assent to the conditions proposed by the Estates for the regulation of the Edict of Toleration:—

“1. That, although members of foreign religions may by no means establish public school-houses, or places of instruction, they may not be prevented from having their children instructed by their ordinary teachers or other private persons.

“2. That the prohibition against sending missionaries within or without the kingdom, which, as regards such regulations as tend to the spreading of their religion, or the making of proselytes, must be maintained with the utmost strictness, yet, on the other hand, it must not hinder their teachers, on being summoned, from visiting their co-religionists in those parts of the kingdom where they have no established churches or congregations, &c.

“3. That the prohibition against public processions and ceremonies must only extend itself to public places, squares, and streets, but by no means to the consecration of their churches, churchyards, bells, or any of their ceremonies which can be performed within closed church or churchyard doors.”

Inclosure 3 in No. 29.

Count Wetterstedt to M. de Lagerswärd.

Stockholm, le 29 Mars, 1833.

PEU avant la mort de l'Abbé Gridaine, longtems Vicaire Apostolique ici, est arrivé de Rome, pour l'assister dans ses fonctions, un certain M. Stratman, Allemand d'origine, dont le caractère propagandiste et peu conciliant, surtout après la mort de l'Abbé, s'est développé d'une manière qui laisse peu d'espoir à le voir revenir à une marche plus conforme à ses devoirs. Malgré qu'il n'ait encore aucun document à exhiber qui puisse légitimer une prétention pareille, document qui même s'il existait, exigerait toujours l'assentiment de notre Gouvernement pour être réputé valable et offrir quelque garantie au titulaire, le Sieur Stratman n'a pas balancé de se mettre en possession de la place de Curé de l'Eglise Catholique, et se permet, dans l'exercice des dites fonctions, des propos peu conformes à la vocation pacifique de son ministère et aux égards dûs au pays qui le tolère comme ministre d'une autre religion que la dominante.

Vous sentez bien, Monsieur, qu'un ordre signifié par la police à M. Stratman de quitter immédiatement Stockholm et la Suède, nous suffirait pour nous en débarrasser, et qu'on adoptera aussi ce moyen, que nous voudrions éviter, si de Rome même, par suite de l'application que je vous prie de faire à cet égard, on ne rappelle d'ici promptement et spontanément cet homme, que tous les conseils et toutes les remontrances de ses connaissances et de ses paroissiens, ont trouvé imperturbable dans la voie erronée qu'il s'est tracée.

Je vous engage ainsi, Monsieur, à vous adresser de suite à qui de droit, pour effectuer sans délai le rappel du Sieur Stratman, et vous ferez sentir à cette occasion, que c'est uniquement par délicatesse pour la Cour de Rome, et non par aucun besoin de son intervention pour éloigner un prêtre incommode, qui abuse de notre Edit de Tolérance, que nous nous adressons à elle, pour gagner le même but, sans bruit et sans esclandre.

(Signé)

COMTE DE WETTERSTEDT.

(Translation.)

Stockholm, March 29, 1833.

SHORTLY before the death of the Abbé Gridaine, long time Vicar-Apostolic here, there arrived from Rome a certain M. Stratman, a German by birth, whose propagandist and unconciliatory disposition showed itself particularly after the death of the Abbé, to an extent which leaves little reason to hope that he will return to a course more consistent with his duties. Although M. Stratman has not hitherto been in possession of any document to exhibit which could warrant such a pretension, a document which, even if it exists, would always require the consent of our Government in order to be valid, as to afford any warranty to the bearer, that person has not hesitated to take possession of the curacy of the Catholic Church, and allows himself, in the exercise of these functions, observations little in accordance with the peaceful vocation of his ministry, and with the deference due to a country which tolerates him as a minister of a religion differing from the established one.

You must be aware, Sir, that an order addressed by the police to M. Stratman to quit Stockholm and Sweden immediately would suffice to get rid of him, and that such a course will be adopted, which we wish however to avoid, if in consequence of the demand which I request you to make in this respect, this person who, notwithstanding the advice and remonstrances of his acquaintance and parishioners, adhered immovably to the erroneous course he has adopted, is not promptly and spontaneously recalled from hence by Rome itself.

I instruct you, Sir, to address yourself immediately to the proper quarter, in order to effect the recall of M. Stratman, and you will at the same time explain that it is solely out of consideration for the Court of Rome, and not from any necessity of its intervention for the removal of an obnoxious priest who abuses our Edict of Toleration, that we address ourselves to that Court to accomplish the same object without noise and without scandal.

(Signed) COUNT DE WETTERSTEDT.

Inclosure 4 in No. 29.

Cardinal Bernetti to M. de Lagerswärd.

Eccellenza,

Roma, 30 Aprile, 1833.

CON pregiata nota del 24 spirante vostra Eccellenza notificò al Sottoscritto, Cardinale Segretario di Stato, l'incauta ed imprecendente condotta tenuta dal Sacerdote Stradmann in Stockholm, per laquale il Reale Governo avrebbe potuto espellere tal soggetto da quella città, se la Sua Maestà il Re di Suecia et de Norvegia; per riguardo verso Sua Santità non avesse più toste voluto, che da Roma partissero gli ordini del di lui richiamo.

Mentre Sua Santità, a cui il Sottoscritto Cardinale si fece un dovere di umiliare la citata nota, è stata dolente per l'avvenuto, ha in pari tempo sternato il suo gradimento della cortese gentilezza avuta lei da Sua Maestà con gli accennati riguardi. E volendo la stessa Santità Sua secondare le premure di Sua Maestà, ha dato i suoi ordini perche sia richiamato da Stockholm il Sacerdote Stradmann, ed in di lui luogo vengano surrogati uno o due altri ecclesiastici, i quali riunendo una Cristiana prudenza allo zelo ed alla pietà presentino tal condotta che peressa non abbia in seguito a darsi luogo a simile o a qualunque vogliasi altrò disgustado avvenimento.

Benchè gli ordini dati siano pressanti e da eseguirsi colla maggiore sollicitudine possibile, pure perche il caso dello Stradmann fù improvviso, non vi hanno al momento pronti quei soggetti da spedirsi colà a rimpiazzarlo.

Perche intanto nella penuria in cui sono quei Cattolici di sagri ministri non abbiano a soffrire danno spirituale, desiderebbe Sua Santità, che la Maestà Sua si compiacesse di permettere che lo Stradmann potesse rimanere in Stockholm per quel non lungo tratto di tempo che occorre per la nuova spedizione.

Coglie intanto, &c.

(Firmato) J. C. BERNETTI.

(Translation.)

Excellency,

Rome, April 30, 1833.

IN your esteemed note of the 24th ultimo, your Excellency notified to the Undersigned, Cardinal Secretary of State, the imprudent and unprecedented conduct pursued by the priest Stradmann in Stockholm, for which the Royal Government could have expelled such a person from that city, if His Majesty the King of Sweden and Norway, out of respect for His Holiness, had not rather wished that the orders for his recall should proceed from Rome.

In the meanwhile, His Holiness, to whom the Undersigned Cardinal made it his duty to submit the above-named note, in expressing his regret at this occurrence, at the same time returns his acknowledgments for the courtesy shown towards him by His Majesty. And His Holiness, wishing to second the desires of His Majesty, has given orders that the priest Stradmann should be recalled from Stockholm, and that some other priests should be appointed in his stead, who, combining Christian prudence with zeal and piety, should conduct themselves in such a manner that for the future there would not be a repetition of a similar disgraceful occurrence.

Notwithstanding that the orders given were prepared to be carried into effect with the greatest possible haste, yet as the case of Stradmann was unforeseen, no persons have been selected at present to replace him.

In the meantime, as Catholics would be deprived of the ministry of their religion, and in order that they should not thereby suffer spiritual danger, His Holiness is desirous that His Majesty would be good enough to allow Stradmann to remain in Stockholm until the new appointment shall have been filled up.

(Signed) J. C. BERNETTI.

No. 30.

Mr. Gordon to Viscount Palmerston.—(Received February 8.)

My Lord,

Stockholm, January 20, 1851.

WITH reference to my despatch of the 9th instant, I have now the honour to inclose a translation of the Edict of Toleration of 1781, which, as it embodies the present Swedish law with regard to the professors of other religious belief than that of the Established Church, appears to me to contain several points of interest at this juncture for Great Britain; the ecclesiastical relations of the two countries, especially with respect to Rome, being so similar.

I beg likewise to inclose translation of that portion of the paragraph of the actual Royal circular of Gustavus III to the Consistories of the kingdom, dated February 15, 1798, which determines the conditions on which vicars apostolic from the Roman See should in future be received, as stated in general terms in the memorandum from Baron Stierneld I had the honour to forward in my despatch of the 9th instant.

Since writing that despatch I have received the annexed answer and its several inclosures from Mr. Crowe, in reply to my application to him for information as to Norwegian law on the subject of the governance of Romanists in Norway.

With reference to these documents, I must correct an error into which Bishop Ridderwold has fallen in the sub-inclosures Nos. 1 and 3, where he refers to a Convention entered into between Pope Pius VI and Gustavus III, in 1783. The fact being that no such Convention ever existed—the only agreement on the subject between the Pope and the King having been a verbal one, as mentioned in my despatch of the 9th instant, at the period of His Majesty's visit to Rome in 1780.

In a private note from Mr. Crowe, which accompanied the above public letter, he says:—"The most important question, however, in my opinion,

is how the Norwegian Government would act in case of bulls being published or bishops nominated without the sanction of the Government. I have consulted several members of the Government, and the most eminent jurists, and they unhesitatingly declare such proceedings would not be tolerated."

With regard to the above I would observe, that my inquiries here have led to precisely the same result as regards both Sweden and Norway; the fact actually being, that in neither country does there exist any positive law on the subject, the case not having been foreseen; but neither would tolerate, I believe, so manifest a violation of national prerogative.

The number of Romanists in Norway is very insignificant, and they are confined to the capital.

I have, &c.

(Signed) G. J. R. GORDON.

Inclosure 1 in No. 30.

Edict of Toleration of 1781.

(Translation.)

ON certain circumstances connected with Religious Liberty, as granted in reference to § 7 of the Decision of the Swedish Chambers, made, drawn up, and agreed to at the General Diet, which closed in Stockholm, January 26, 1779.

WE, Gustavus, by the grace of God, King of Sweden, the Goths, and the Vandals, &c., heir to Norway, and Duke of Schleswig-Holstein, &c., make known that, while from our first ascending the throne of our forefathers, We have always been anxious, while preserving the purity of our religion, to spread the light of the Gospel by such enactments as, under the gracious favour and blessing of God, may at once increase His true worship and further the temporal welfare of Our faithful subjects. We have at the same time always regarded a free exercise of religion as the surest means of attaining so important an end. We have been encouraged hereto by the permission formerly accorded to strangers to dwell among a people which had received its laws direct from the highest Law-giver of all; in addition to which, a long-acknowledged and lamented thinness of population in this country having hindered trade and commerce from gaining any strength or perfection, it is now evidently indispensable to increase both the number of inhabitants here and their money-capital. Similar advantages have already been obtained by those well-governed States in which, to the honour of humanity, liberty of conscience has been almost universally adopted; and it is with pleasure that We ourselves count among all classes of Our honest and contented subjects, descendants of the professors of a foreign religion, who, driven from the land of their ancestors on account of the faith they professed, were received among us, and not only transported to this country considerable property, but also improved by their superior knowledge one of the most useful arts in the kingdom. We are abundantly assured that Our glorious Predecessors, the former illustrious Kings of Sweden, have directed their attention to this subject. But if Gustavus I, among other important occupations, engaged in uprooting unbelief and superstition, found the growth and security of the Evangelical doctrine he had himself planted in the kingdom opposed to the admission of other religious exercises among a people who, themselves wrapt up in the darkness of ignorance, had, rather perhaps from obedience than conviction, but lately received the heavenly truths, and who, without any judgment of their own, and attached to their former customs and ceremonies, might be easily misled to return to them, especially during a period absolutely required by their teachers for their own instruction; and if Gustavus Adolphus, who sacrificed his invaluable life in a war which he had commenced in the name of religion, had not time to carry his plans into execution; We, on the other hand, find Ourselves in a situation to undertake this important business, enjoying, as we do, a happy peace after a delightful reunion of sundered opinions, and now that, in a period enlightened by science, religion is firmly established in Swedish hearts, and We can

place the most entire confidence in the zeal, learning, and attention of Our clergy. Our only remaining scruple has therefore been, the respect We have been anxious to pay to the opinions and judgments of Our faithful subjects. The more we wished to meet their wishes on this question, the more agreeable was it for Us to receive a proposal on this head from the Chambers of the realm assembled in their last Diet. We immediately declared that We should with pleasure take the step requested, on the conditions they had laid down, with any additions We might find good to add; and this our consent was registered in the Decision of the Diet. But We have not been able to avoid further arrangements and enactments in carrying the whole into execution.

We therefore hereby, and in force of this Our Open Letter and Proclamation, generally announce and declare to all whom it may concern, both within and without the kingdom, that we have granted perfect liberty of conscience, with free and uncontrolled religious exercises, over all our kingdom and in the provinces depending thereon. We also give the assurance that those persons professing foreign religions who have already settled in this country, or may hereafter be inclined so to do, shall not only enjoy their religious liberty in the manner and on the conditions now to be declared, but they shall also ever remain in the special protection of Ourselves and Our Royal successors, and shall have the same security for life and property as that possessed by Our own subjects, according to the laws of Sweden.

The conditions humbly drawn up by the Diet were as follows:—

1. That professors of any foreign religion who shall wish to settle in the kingdom, may under no condition be appointed to any office or employ in the State, high or low.

2. That nowhere throughout the kingdom may they establish any public school-house or other seminary for the spread of their faith.

3. That for this purpose they may neither send nor receive any missionaries within or without the country.

4. That no monastery shall be established, nor any monk allowed or permitted, of any sect or religion whatsoever.

5. That Jews may have synagogues only in Stockholm, and, at the most, in two or three other large towns, where, under a proper police, they may be duly watched.

6. That the processions and ceremonies usual among foreign religions shall be forbidden, for the avoidance of all probability of error or scandal among the simpler sort.

7. That the enactments of the Criminal Law, chap. I. § 3, as to those who fall away from our right evangelical doctrine, shall be strictly carried into effect.

8. That no one professing a foreign faith may enjoy any right at any Diet.

To these conditions We have already agreed, but nevertheless think it needful, yet again hereby still further to confirm the same, as well as the Declaration We then immediately made on the liberty of the press, that it may not extend to books which defend the dogmas of foreign religions, or which in any way oppose the precious fundamental truths of Our own pure faith, thereby possibly spreading doubt among the less intelligent of the community. At the same time We hereby enact, that any member of a foreign religion who—

1. Shall speak disrespectfully of Our creed, Our service, Our church laws and ceremonies, and the priestly office, shall be fined from 10 to 50 dollars silver, in proportion to the offence; for the second offence the fine shall be doubled.

2. Any one persuading another to adopt his religious dogmas, or spreading any legend, shall be fined 100 dollars silver for the first offence, and double for the second.

3. Any master or foreman compelling any one under his authority, but belonging to the Lutheran congregation, to visit or take part in the public or private religious exercises of persons professing a foreign religion, shall be fined 200 dollars silver, such servant being also entitled to leave his employ immediately, the master being bound to make good any loss thereby occasioned. Any person tempting another to attend any foreign religious exercise, or to fall away from the Lutheran doctrine, shall also be fined 200 dollars silver; should he still persist in so doing he shall lose his privilege of residing in the kingdom.

On the other hand, We are graciously pleased to grant them, now and for the future—

1. To enjoy all civil rights and privileges, as before declared, excepting that they may not be employed in any office or station in the State, or be elected members of the Diet. Their children, however, may enjoy this advantage, in case they adopt the Lutheran faith.

2. To build their own churches, but only on the conditions pointed out in Our gracious proclamation on public buildings, dated July 31, 1776, namely, that the plans and estimates shall first be examined and revised by Our Chief Court Intendant Office, and shall afterwards be graciously approved by Ourselves, without which procedure no building or considerable repair shall ever be allowed.

3. To provide their churches with bells and burial-grounds.

4. To procure for their congregations proper teachers of their own religion.

5. When both the parents are of the same religion, to cause the children to be baptized by their own priests, and with their own ceremonies, and to bring them up in the same religion.

6. To enjoy the same liberty at their marriages when neither party is Lutheran, provided only the bans have been published three times from the pulpits, as the Swedish law demands.

7. In the same manner, to church women and bury the dead according to their rites.

As respects the above-named conditions proposed by the Diet and sanctioned by Ourselves, in order to avoid all disputes and uncertainty, We find it needful to give the following explanations:—

1. That although members of a foreign communion may by no means establish any public school-house or other seminary, they be fully entitled to educate their own children by means of their proper masters or other private persons.

2. That the prohibition against their receiving or sending missionaries within or without the kingdom, must be executed with the utmost severity as regards any arrangements tending to spread their religion, or gain them proselytes; but that this shall not prevent their teachers, when called from visiting their fellow religionists in places in the kingdom where they have no churches or congregations, for the purpose of administering the baptism of infants, the communion, marriage, the churching of women, and burial, according to their manner.

3. That the prohibition against general processions and ceremonies shall only extend to public places, squares and streets, but by no means to the consecration of their churches, churchyards, bells, or to any such ceremony as can be performed within the doors of their churches or churchyards. And

4. As to their right of electing to the Diet, the Chambers have overlooked the fact, that this privilege is already enjoyed by the Reformed Lutherans, in accordance with a royal proclamation of August 27, 1741, and that this Church must therefore retain the same for the future; but as, according to the humble representation of the Diet, all other religionists would be excluded from this right, We declare that, as members of the State, though not of the Church, they must be permitted to take part in the elections to the Diet, for, under the liberty enjoyed by our present system of government, a privilege so considerable should be shared without hindrance by every one in a class entitled to send representatives to any of the Chambers.

Our subjects are also seriously warned not to deny foreign religionists free access to our public worship, on pain of a fine of 10 dollars silver. For any scandalous interruption of their worship, the offender shall be fined 25 dollars silver. Breach of the peace specially assured to every one going to, or from, or present at Divine service, shall be punished according to the 18th chapter of the Criminal Law. Any one ridiculing their distinctive opinions or holy customs shall be fined from 10 to 50 dollars silver, according to the crime and circumstances, to be doubled for the second offence; and the same law shall hold good against persons attacking foreign religious dogmas in any private society.

We have also on this occasion caused to be produced before us all royal declarations, enactments, letters and ordinances, as well as all reports and decisions of the Diet, respecting religion, published since the Reformation; and, as some among these are altogether opposed to freedom of religious exercises, We

declare the same to be entirely abolished and annulled, in so far as they are in any respect irreconcilable with this Our enactment, issued at the request of Our faithful Chambers.

We acknowledge at once the difficulty of foreseeing all the circumstances to which this new law can give rise, and the impossibility of providing for all such by a separate clause. But as We have clearly shown in the above what Our gracious purpose has been and is, namely, to extend to foreign religionists all the liberty which possibly can be granted without injuring Our own true religion, changing the fundamental laws of Our kingdom or interfering with the peace of Our own subjects,—and as We now proceed to legislate on these grounds respecting some of these points,—We may hope that the rest also may be easily arranged by an application of the same principles.

Our attention has been first directed to marriages which may take place between persons of different communions. The directions to the clergy in chap. 15, §, 8 of the Church Law,—that they shall zealously dissuade against all such unions, will of course remain in force, but experience has shown that such efforts are commonly in vain. The most important question connected herewith is, in what religion the children are to be educated.

As to the reformed Lutherans, the Royal Letter of Aug. 21, 1765, has already fixed, that when the man is Lutheran and the woman Reformed-Lutheran, the children shall be unconditionally brought up in the Lutheran faith, but that when the husband is Reformed and the wife Lutheran, an agreement as to the education of the children shall be entered into before the Consistory previous to the marriage, and if this does not take place, the father shall be at liberty to educate his children in his own religion. This liberty We do not wish to limit, but only so far to modify as that such agreement shall not be laid before the Consistory, but before the Governor in Stockholm and the Lord-Lieutenant in the country.

And as We find it would involve very considerable oppression to make different arrangements regarding such marriages with Greeks, Catholics or other religionists who at present have no claim to any such promises, We are pleased to determine that the same course shall be taken with regard to them as is above laid down respecting the Reformed Lutherans.

Disputes on this head will be best prevented, by marriage-agreements hereon being entered among the minutes of the Governor or the Lord-Lieutenant, and it will therefore be the duty of the clergy, as far as possible, and without any violence, to advise and aid such contracts before the bans are published.

Illegitimate children receiving any public support will be educated in the Lutheran faith, whatever may be the religion of the mother.

The question as to who shall celebrate the nuptials in marriages of this kind, We think of less importance. But in order that no dispute may arise, We think it fit to determine that the usual course shall be continued, namely, that the marriage shall be performed according to the ceremonies of both congregations, but at different times.

Members of a foreign Church residing in the country, but so few in number that they cannot constitute a separate congregation or keep their own priests, shall be bound to forward their and their families' names, birth-place, age, and certificate of character, to the Lord-Lieutenant in whose county they intend to reside.

Lutheran clergyman shall on no condition, and under heavy penalties, force their official services on such persons, but leave them at liberty to obtain priests of their own religion from other quarters for all those ministrations which may occur in their house. Should, however, the assistance of Our Lutheran priests be voluntarily requested by foreign religionists, the same may celebrate their marriages, after due proof of the publication of the bans, and bury their dead, with no other change in the formularies of the Swedish hand-book than of the words required by the circumstances on each occasion.

They may, in the same manner, administer infant baptism, if the parents wish it. The latter, however, may themselves baptise their children, and afterwards obtain the confirmation of their teacher, according to the dictates of their religion.

In order to obtain proper completeness in the statistical tables, the magistrates in the towns, and the Crown bailiffs in the country, shall draw up an exact list of all marriages, births, and deaths, occurring in their districts among

foreign religionists who have no congregation of their own, and consequently no official lists, whether the same employ their own or Lutheran priests. At the close of every year these lists shall be sent to the several Lords-Lieutenant of the district, who will afterwards transmit them to the proper Consistories, to be made use of by them in drawing up their statistical tables.

If foreign religionists, in case of sickness, of their own free will, request the attendance of Lutheran clergymen, the same may not be refused; but, under these circumstances, the sick shall only be addressed evangelically on the grace of redemption and justification, their minds not being disturbed, nor their consciences burdened with religious debates and controversies.

All Christian sects shall be allowed a decent grave for their dead in churchyards and other public burial-places, as hath heretofore been usual; and, on paying the customary fees, they may also be allowed the use of the church-bells at their burials, whether Lutheran or their own priests officiate thereat.

The forum for law-suits on religious questions shall continue to be Our usual High Courts.

Should it ever happen that foreign religionists are obliged to appear before a Consistory, they shall be entitled to request the attendance of a public fiscal officer, who shall remain until their case is discussed and decided.

The prohibition at present in force against Our Lutheran subjects attending foreign religious services We have not been able to abolish, for no one ought to neglect his own offices of religion out of curiosity to see those of others. Any such offender shall therefore be fined up to 10 dollars silver, according to circumstances.

Neither shall foreign religionists admit to their services any other than their own members.

Nothing in the enactment now hereby promulgated shall be understood to concern or include the Jews. For this people We intend to draw up separate commercial regulations, which will also contain and explain the conditions of the religious liberty to be extended to them.

We now hereby recommend to our Governor in Stockholm, and our Lords-Lieutenant in the country, by means of the proper authorities, to keep a watchful eye over the execution of this Our gracious enactment, to prevent all abuse thereof, and to give early notice if such should occur. For the rest, it is their duty, as well as that of all judges and magistrates, to assist such foreign religionists in the enjoyment of any right they can legally claim, and, in any dispute or lawsuit among themselves, or between them and Our Lutheran subjects, to give sentence without delay according to law.

We have, also, such high confidence in the bishops and the clergy, as to be assured that, remembering the fidelity they owe Ourselves and our realm, and the powerful claims of their own consciences, they will watch over the conduct of their inferior clergy, so that they may neglect nothing of the care of souls committed to them, and, on the other hand, may not interfere with things that do not concern them.

Lastly, We most faithfully implore the Supreme, that He may graciously please to bless these regulations, so that they may answer the purpose designed, and, so far, tend to promote the common weal, by extinguishing all false and bitter enthusiasm, while they enliven a religious zeal for God's glory, and for those virtues which are inseparable from piety and humanity, which all whom it may concern shall obediently remember. And in further proof we have signed the same with Our own hand, and caused Our royal seal to be affixed hereto.

Given at Our Palace of Stockholm, January 24, 1781.

(L. S.)

GUSTAF.

Inclosure 2 in No. 30.

Circular of Gustavus III to the Consistories of Sweden, February 15, 1798.

(Translation.)

(Extract.)

WHEN the Papal See sends here a Vicar, and the same is accredited to us, such a one must legalize his appointment (*sig legitimem*) before the chief of our Chancellerie (Minister for Foreign Affairs), or whomsoever occupies his place, whose duty it will then be to direct him to the office of the Grand Governor of

Stockholm, for the purpose not only of being personally known there, but also (with reference to his directions of the Catholic community, by which he will have the right of nominating other priests) of enabling him to enjoy the other privileges secured to him.

Inclosure 3 in No. 30.

Consul-General Crowe to Mr. Gordon.

Sir,

Christiania, January 11, 1851.

IN accordance with your despatch of the 26th ultimo, requiring information relative to the rights and regulations established between the Norwegian Government and the Court of Rome for the governance of the Roman Catholic Church in Norway, I lost no time in applying officially to Statnaad Bishop Ridderwold, chief of the department for the Affairs of the Church and Education, and yesterday I received his reply, with three inclosures, which I have now the honour to transmit.

Nos. 1, 2, and 3, I forward in original, with translations attached.

No. 4 is a copy of the law relating to Dissenters in Norway.

I likewise hand you a translation of the § 2 of the Norwegian Ground Law, alluded to in inclosure No. 3.

I have, &c.
(Signed) J. R. CROWE.

Inclosure 4 in No. 30.

Bishop Ridderwold to Consul-General Crowe.

*Royal Norwegian Government's
Department for the Church and Education.
Christiania, January 10, 1850.*

(Translation.)

THE Consul-General has, in a letter of the 2nd instant, requested a copy of any Concordat or equivalent arrangement between the Norwegian Government and the Court of Rome, for the governance of the Roman Catholic Church in Norway; likewise information with respect to the appointment of Roman Catholic bishops and the publication of Papal bulls and rescripts; and whether such bulls and rescripts may be published without the previous knowledge and sanction of the Norwegian Government.

In consequence hereof the Department begs in reply to transmit—

1st. Copy of a Royal gracious Resolution of the 6th March, 1843, which, prior to the general law which conceded to every denomination of Christian faith free public religious exercise, granted a special licence for the time to adherents of the Roman Catholic faith resident in Christiania, to form themselves into a separate community with their own minister.

2nd. Copy of a communication in pursuance of this resolution, from the members of the Norwegian Government in Stockholm, dated 6th April, 1843, in which amongst other things will be observed that in accordance with a Convention entered into in the year 1783, between Pope Pius VI and Gustavus III, an Apostolic Vicar for the government of all Catholic affairs was settled in Sweden, and that the individual nominated to this post was at a latter period delegated and acknowledged as the Apostolic Vicar for the Roman Catholic residents in Norway.

3rd. Copy of the law for Dissenters, passed under date of 16th July, 1845, in which, as cited above, free religious exercise is granted, likewise to all such as are not members of the State church, but who otherwise profess the Christian faith.

These documents contain all the information the Department can communicate in reply to the Consul-General's letter. The Department further remarks that with the details of the above-named Convention of 1783, it is entirely ignorant.

(Signed) RIDDERVOLD.

Inclosure 5 in No. 30.

Royal Resolution of March 6, 1843.

1. IT is graciously permitted to the members of the Roman Catholic faith residing in Christiania, for the present to form a separate community among themselves, with their own minister, who, after having proved to the Lord Lieutenant (Stiftamtmand) of Christiania that he is duly authorized, can perform divine service for the members of the above-named community, and mutually between them perform marriages, and other ministerial offices according to the ritual of the Roman Catholic Church, without, however, being permitted to undertake any public processions with the sacrament or any images of saints.

2. The minister of the above community has, at the expiration of each year, to transmit to the magistrate of Christiania, a report of the number of births, marriages, and deaths that may have taken place in the community during the year, which the magistrates again transmit to the dean.

Inclosure 6 in No. 30.

The Members of the Division of the Norwegian Council of State residing at Stockholm to the Church and Education Department.

April 6, 1843.

IN consequence of a request from the Royal Department, in a letter dated 25th ultimo, and in accordance with the information that has been obtained in consequence, the Members of the Division of the Council of State have to communicate that, in virtue of a Convention entered into between Pope Pius VI and Gustavus III, in the year 1783, since then, an Apostolic Vicarship for the governance of Catholic affairs in Sweden has existed.

This function, in accordance with an appointment of Pope Gregorius XVI, of the 4th August, 1833, has been vested in Mr. J. L. Studach, and graciously acknowledged in the same year. With respect to the limits of the vicarial functions, Mr. Studach already in 1841, when the question of forming a separate community in Christiania for the members of the Roman Catholic faith in that city was agitated, obtained the decision of his Government, that the Apostolic Vicarius of Stockholm has at the same time to superintend the Catholic affairs in Norway. To which His Majesty, in accordance with the Resolution of the 6th March last, has graciously given his sanction.

As Mr. J. L. Studach is thus appointed and acknowledged as Apostolic Vicar likewise for those professing the Catholic faith in Norway, he will in future be the person to appoint priests to the Catholic community in Christiania; and for which latter reason the undersigned Minister of State has not failed to call his attention to the 2nd § of the Ground Law.

Inclosure 7 in No. 30.

§ 2 of the Norwegian Ground Law.

(Translation.)

THE Evangelical Lutheran religion remains the public religion of the State. The inhabitants who belong to it are bound to educate their children in the same.

Jesuits and religious orders (monks' orders) must not be tolerated.

Jews continue to be excluded from the country.

SWITZERLAND.

No. 31.

Mr. Herries to Viscount Palmerston.—(Received Dec. 21.)

My Lord,

Berne, December 17, 1850.

IN reply to your Lordship's despatch of December 12, instructing me to transmit to your Lordship a copy of any Concordat or equivalent arrangement between the Federal Government and the Court of Rome, for the government of the Roman Catholic Church in Switzerland, and likewise to report as to the course pursued with regard to the appointment of Roman Catholic bishops, and with regard to the publication of Papal bulls, I have the honour to state, that no Concordat or equivalent arrangement exists between the Swiss Confederation, as such, and the Court of Rome; and that the Federal Government does not interfere in any way respecting the appointment of bishops or the publication of bulls.

All such matters are regulated by the authorities of the different cantons interested in them, as they may think fit, and the arrangements relating to them are very various.

I shall not fail to forward to your Lordship copies of the Concordats in force between any Swiss Cantons and the Court of Rome, so soon as I can procure them, together with a report as to the different modes of proceeding with regard to the other other questions alluded to in your Lordship's despatch. In the meantime I may observe, that although no fixed rule prevails throughout Switzerland, the principle generally adhered to, is, that bishops are appointed either directly by the Cantonal authorities, or subject to their approbation, and that the publication of bulls and rescripts is not permitted without the sanction of those Governments.

I have, &c.

(Signed) EDWARD HERRIES.

SWITZERLAND.

No. 81.

Mr. Harris to Federal Government--(Received Nov. 24)

Dear Sir,

In reply to your letter of the 12th inst. I am sorry to find that the Government of the United States has not yet received a copy of my Circular for the purpose of being forwarded to the Federal Government and the Court of Honor. The Government of the United States has not yet received a copy of my Circular for the purpose of being forwarded to the Federal Government and the Court of Honor. The Government of the United States has not yet received a copy of my Circular for the purpose of being forwarded to the Federal Government and the Court of Honor.

All such matters are regulated by the authorities of the different countries interested in them as they may think fit, and the arrangements relating to them are very various.

I shall not fail to forward to your Embassy copies of the Circulars in these matters and I am sure that the Court of Honor will be able to give you a report as to the different matters of the same nature which will be forwarded to the other authorities which are in your hands. In the meantime I may observe that although no fixed rules have been established, the principle generally adopted is that no one is appointed either directly by the Federal Government or subject to their approbation, and that the position of bulls and horses is not permitted without the sanction of the Government.

I have, Sir,
Yours faithfully,
EDWARD HARRIS.

TURKEY.

No. 32.

Sir Stratford Canning to Viscount Palmerston.—(Received February 3.)

My Lord,

Constantinople, January 5, 1851.

IN reply to your Lordship's despatch instructing me to report on several points relating to the exercise of Papal authority in this country, I have the honour to state that no Concordat, or arrangement equivalent to a Concordat, exists between the Porte and the Court of Rome; that the Roman Catholic bishops in Turkey are generally either appointed or confirmed by the Pope; and that Papal bulls and rescripts, transmitted to them respectively from Rome, either directly or through the Vicar Apostolic residing here, are published by them in the several churches under their respective superintendence.

The accompanying memorandum contains some interesting particulars on this subject derived from an authentic source.

It would seem that no Roman Catholic bishop in this country can legally enforce any act of authority emanating from Rome, and that the appointment of bishops is at once a matter of conflicting pretension, and of mutual, though tacit, compromise between the Court of Rome and the several Roman Catholic communities.

The Porte appears to connive at their exercise of spiritual authority, and reserves the right of interference. The Vicar Apostolic residing here is not recognized by the Turkish Government.

I have, &c.

(Signed) STRATFORD CANNING.

Inclosure in No. 32.

Memorandum on the Catholic Hierarchy in Turkey.

Latins—Franks.

CONSTANTINOPLE.—Il y a ici un *Vicaire Apostolique* qui a le titre d'Archevêque *in partibus* de Petra. Sa juridiction s'étend, en Asie, à Sinope, à Samsoun, à Trébisonde, à Erzroum, à Angora, à Tocat et à Amassia; et en Roumélie, à Salonique, à Andrinople et jusqu'à Monastir.

JERUSALEM.—*Patriarche Titulaire*. Anciennement il y avait à Jérusalem un Patriarche *in partibus* qui résidait à Rome. Mais depuis 1847, il y a un Patriarche titulaire qui réside à Jérusalem. Le Patriarche actuel, Valergo, se trouve par congé à Rome.

SMIRNE.—*Archevêque titulaire* qui prend aussi le titre de Vicaire Apostolique de l'Asie Mineure.

Villes où il y a des Evêques Franks.

Scio .	.	.	Evêque titulaire.
Bagdad .	.	.	Idem.
Moussoul .	.	.	Evêque <i>in partibus</i> .
Philippopoli .	.	.	Evêque <i>in partibus</i> ; il est Evêque de Croyo.

Bucharest . . .	Evêque titulaire pour toute la Valachie.
Jassi . . .	Evêque titulaire pour toute la Moldavie.
Alessio . . .	Evêque titulaire.
Antivari . . .	Evêque titulaire.
Durazzo . . .	Evêque titulaire.
Sofia . . .	Evêque titulaire.
Scutari d'Albanie . . .	Evêque titulaire.
Herzegovine . . .	Evêque titulaire.
Bosnie . . .	Evêque titulaire.
Antoura . . .	Evêque titulaire dans le Mont Liban.
Alexandrie . . .	Vicaire Apostolique.
Tunis . . .	Vicaire Apostolique.
Egypte . . .	Archêveque <i>in partibus</i> , et Vicaire Apostolique.

Arméniens Catholiques.

Séleucie . . .	Patriarche titulaire; il réside à Bezoumar dans le Mont Liban.
Tocat } Amassia } Alep } Mardin }	Evêques titulaires et suffragans du Patriarcat de Séleucie.

CONSTANTINOPLE.—*Archevêque Primat.* Tel est le titre qu'il tient de Rome; mais la Porte lui donne le titre de *Patriarche*.

Nouridjan a été le premier Archevêque Primat nommé par le Saint Siège il y a plusieurs années. La Porte n'a pas voulu connaître cette nomination de la part du Saint Siège, et elle a, en conséquence, nommé à sa place Don Giovanni Valé, *Patriarche*: ce qui a fait que Nouridjan a conservé le pouvoir spirituel, Giovanni Valé, le pouvoir temporel. Quelque tems après, et lorsque Hassoun était, comme il est à présent, Archevêque, la nation Arménienne a obtenu de la Porte que les deux pouvoirs fussent réunis en la personne de Hassoun. Mais plus tard, et par suite de graves discussions survenues entre deux partis dans la nation, et prenant leur source dans un projet d'établir certaines écoles, Hassoun a résigné sa qualité de Patriarche et a conservé son pouvoir spirituel qu'il tient de Rome en sa qualité d'Archevêque. En conséquence de cette résignation, la Porte a nommé Don Giovanni Salviani Patriarche. De manière que les deux pouvoirs se trouvent de nouveau divisés comme cela a été au commencement.

Or, il y a quelques mois que le Saint Siège, sur la proposition et à la sollicitation de l'Archevêque Hassoun, a établi cinq nouveaux évêchés, savoir: à Brousse, à Angora, à Trébisonde, à Artivin (ville à quelque distance d'Erzroum), et dans une ville de Perse. Lorsque la Nation Arménienne a su les nouveaux établissemens, piquée de ce qu'elle n'avait pas été consultée ni par la Cour de Rome, ni par leur Archevêque, s'est opposée au sacre des cinq individus destinés à l'épiscopat pour les villes ci-dessus désignées. Mais l'Archevêque, fort de l'autorité que Rome lui avait donnée, sacra les cinq individus, malgré l'opposition qu'il rencontrait. Or, voici ce qui arrive: la nation, usant de son influence, non-seulement empêche que la Porte ne leur donne leurs firmans d'investiture, mais qu'ils partent, même sans firmans, pour leurs destinations respectives.

Maronites.

A Canobin . . .	(dans le Mt. Liban) un Patriarcat titulaire.
Seida . . .	Evêque titulaire.
Beyrout . . .	Idem.
Chypre . . .	Idem.
Damas . . .	Idem.
Baalbec . . .	Idem.
Tripoli . . .	Idem.
Alep . . .	Idem.

Tous ces Evêques sont Suffragans du Patriarche de Canobin.

Chaldéens.

Moussoul	.	.	Patriarche.
Diarbekir	.	.	Evêque.
Djezré	.	.	Evêque.
Moussoul	.	.	un Evêque qui est adjoint au Patriarche.
Mardin	.	.	Evêque.
Sérit	.	.	Evêque.
Amédyé	.	.	Evêque.
Kerkouk	.	.	Evêque.

Tous ces Evêques sont Suffragans du Patriarche de Moussoul.

Grecs unis ou Milchites.

Antioche	.	.	Patriarche d'Antioche et Administrateur des Patriarcats de Jérusalem et d'Alexandrie, où il y a des Vicaires. Ce Patriarche réside ordinairement à Damas.
Alep	.	.	Evêque.
Beyrout	.	.	Idem.
Tour (Zyr)	.	.	Idem.
Seida	.	.	Idem.
Acre	.	.	Idem.
Zahlé	.	.	Idem.
Baalbec	.	.	Idem.
Damas	.	.	Idem.

Ces Evêques sont Suffragans du Patriarche d'Antioche.

Syriens unis.

Alep	.	.	Patriarche.
Nebk	.	.	Evêque.
Moussoul	.	.	Idem.
Damas	.	.	Idem.
Mardin	.	.	Idem.
Alep	.	.	Idem.
Caïre	.	.	Idem.

D'après les privilèges accordés par le Saint Siège aux Prélat Orientaux (Chaldéens, Milchites, et Syriens Unis), lorsqu'un Patriarche meurt, ou résigne son poste, les évêques ses suffragans élisent un remplaçant que Rome accepte toujours; quant aux Patriarches ils sont autorisés à augmenter le nombre de leurs suffragans et à établir des évêques là où ils veulent; et le Pape les confirme.

(Translation.)

Latins—Franks.

CONSTANTINOPLE.—There is here a Vicar Apostolic, who has the title of Archbishop (*in partibus*) of Petra. His jurisdiction extends in Asia to Sinope, Samsoun, Trebizond, Erzeroum, Angora, Tocat, and Amassia, and in Roumelia, to Salonica, Adrianople, and as far as Monastir.

JERUSALEM.—*Titular Patriarch.*—In former times there was at Jerusalem a Patriarch *in partibus*, who resided at Rome; but since 1847 there has been titular Patriarch, who resides at Jerusalem. The present Patriarch, Valerga, is at present on leave of absence at Rome.

SMYRNA.—*Titular Archbishop*, who also takes the title of Vicar Apostolic of Asia Minor.

Towns where there are Frank Bishops.

Scio	.	.	Titular Bishop.
Bagdad	.	.	Ditto.
Mossul	.	.	Bishop <i>in partibus</i> .

Philippopoli . .	Bishop <i>in partibus</i> . He is also Bishop of Croyo.
Bucharest . .	Titular Bishop for all Wallachia.
Jassiy . .	Ditto . . for all Moldavia.
Alessio . .	Titular Bishop.
Antivari . .	Ditto.
Durazzo . .	Ditto.
Sofia . .	Ditto.
Scutari in Albania . .	Ditto.
Herzegovine . .	Ditto.
Bosnia . .	Ditto.
Antoura . .	Titular Bishop in Mount Lebanon.
Alexandria . .	Vicar Apostolic.
Tunis . .	Ditto.
Egypt . .	Archbishop <i>in partibus</i> and Vicar Apostolic.

Armenian Catholics.

Seleucia . .	Titular Patriarch: He resides at Bezoumar in Mount Lebanon.
Tocat } Amassia } Aleppo } Mardin }	Titular Bishops and Suffragans of the Patriarch of Seleucia.

CONSTANTINOPLE.—*Archbishop Primate*. Such is the title he holds from Rome; but the Porte gives him the title of Patriarch.

Nouridjan was the first Archbishop Primate nominated by the Holy See many years ago. The Porte did not choose to acknowledge this nomination of the Holy See, and in consequence named in place of him Don Giovanni Valé, Patriarch; the result of which was, that Nouridjan has retained the spiritual power, and Giovanni Valé the temporal power. Some time afterwards, and when Hassoun was—as he is at present—Archbishop, the Armenian nation obtained of the Porte that the two powers should be reunited in the person of Hassoun. But at a later period, and in consequence of serious discussions which arose between two parties in the nation, and which originated in a plan for the establishment of certain schools, Hassoun resigned his character of Patriarch, and preserved his spiritual power, which he holds of Rome in his capacity of Archbishop. In consequence of that resignation, the Porte has named Don Giovanni Salviani as Patriarch. So that the two powers are a second time separated, as was the case at the beginning.

Some months ago the Holy See, on the proposal and at the solicitation of the Archbishop Hassoun, established five new bishoprics, viz., at Broussa, Angora, Trebizond, Artivin (a town at a little distance from Erzeroom), and in a city of Persia. When the Armenian nation was informed as to the new establishments, from pique at not having been consulted either by the Court of Rome or by their Archbishop, they opposed the consecration of the five persons selected Bishops in the towns above mentioned. But the Archbishop, strong in the authority which Rome had conferred upon him, consecrated the five persons in spite of the opposition he met with. Now, the following is the result:—The nation, exerting its own influence, not only prevents the Porte from giving the Bishops their firmans of investiture, but they set forth, even without the firmans, for their respective destinations.

Maronites.

At Canobin . .	(In Mount Lebanon) a Titular Patriarch.
Seida . .	Titular Bishop.
Beyrout . .	Ditto.
Cyprus . .	Ditto.
Damascus . .	Ditto.
Baalbec . .	Ditto.
Tripoli . .	Ditto.
Aleppo . .	Ditto.

All these Bishops are Suffragans of the Patriarch of Canobin.

Chaldæans.

Mossul	.	.	Patriarch.
Diarbekir	.	.	Bishop.
Djezré	.	.	Ditto.
Mossul	.	.	A Bishop, who is connected with the Patriarch.
Mardin	.	.	A Bishop.
Serik	.	.	Ditto.
Amédyé	.	.	Ditto.
Kerkouk	.	.	Ditto.

All these Bishops are Suffragans of the Patriarch of Mossul.

United Greeks or Melchites.

Antioch	.	.	The Patriarch of Antioch is Administrator of the Patriarchates of Jerusalem and of Alexandria, where there are Vicars. That Patriarch ordinarily resides at Damascus.
Aleppo	.	.	Bishop.
Beyrout	.	.	Ditto.
Tair (Zyr)	.	.	Ditto.
Seida	.	.	Ditto.
Acre	.	.	Ditto.
Zahlé	.	.	Ditto.
Baalbec	.	.	Ditto.
Damascus	.	.	Ditto.

These Bishops are Suffragans of the Patriarch of Antioch.

United Syrians.

Aleppo	.	.	Patriarch.
Nebk	.	.	Bishop.
Mossul	.	.	Ditto.
Damascus	.	.	Ditto.
Mardin	.	.	Ditto.
Aleppo	.	.	Ditto.
Cairo	.	.	Ditto.

According to the privileges conceded by the Holy See to the Eastern Prelates (Chaldæan, Melchites, and United Syrians), when a Patriarch dies, or resigns his post, his Suffragan Bishops elect a substitute, who is always accepted by Rome. As regards the Patriarchs, they are authorized to increase the number of their Suffragans, and to establish Bishops in such places as they choose; and the Pope confirms them.

Continued.

Monks	.....	Monks
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim
Yildirim	.....	Yildirim

All these Bishops are suffragans of the Patriarch of Constantinople.

United Greek or Melchite.

Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch

These Bishops are suffragans of the Patriarch of Antioch.

United Bishop.

Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch
Antioch	.....	Antioch

According to the divisions contained in the Holy Bible the Eastern Patriarch (Constantinople, Antioch, and Jerusalem) were established one, or rather his seat, the Eastern Patriarch, who is a bishop and a priest by house. As regards the Patriarch, they are authorized to increase the number of their suffragans, and to establish Bishops in such places as they choose; and the Pope confirms them.

TUSCANY.

No. 33.

*The Hon. P. C. Scarlett to Viscount Palmerston.—(Received
January 9, 1851.)*

My Lord,

Florence, December 31, 1850.

IN reply to your Lordship's despatch of December 12, instructing me to transmit a copy of any Concordat or equivalent arrangement between the Tuscan Government and the Court of Rome, and to report as to the course pursued in Tuscany with regard to the appointment of Roman Catholic bishops, and with regard to the publication of Papal bulls and rescripts, &c., I have herewith the honour to inclose an official answer addressed to me by the Duc of Casigliano on the above-mentioned inquiries, in reply to my communication to his Excellency of the request made by Her Majesty's Government, to obtain as soon as possible information on these points.

By this reply it appears, that 1st, there is no Concordat between Rome and Tuscany; that 2dly, no bulls or rescripts can have effect or be published in Tuscany without the authority of the Government; and that 3dly, with regard to the appointment of bishops, when vacancies occur, the Tuscan Government sends to Rome a list containing four names, out of which it is the usual practice for the Pope to select the first on that list.

I have, &c.

(Signed) P. CAMPBELL SCARLETT.

Inclosure in No. 33.

The Duc de Casigliano to the Hon. P. C. Scarlett.

Florence, 30 Décembre, 1850.

CONFORMEMENT au désir que vous avez bien voulu m'exprimer au nom du Gouvernement de Sa Majesté Britannique par votre office du 20 de ce mois, je suis aujourd'hui à même de vous informer qu'il n'existe pas de Concordat ni de Convention entre les deux Cours de Toscane et de Rome pour ce qui a trait à l'exercice de la juridiction ecclésiastique dans le Grand Duché.

Cet exercice est réglé par une série de lois émanées par l'autorité souveraine de l'Etat, et qui ont été depuis longtems constamment appliquées.

En toute circonstance où il s'agit de remplacer un siège épiscopal, le Souverain de la Toscane fait présenter au St. Père une liste de quatre candidats, avec l'intelligence préalable que le choix doit tomber sur le premier, même dans le cas où celui-ci n'aurait pas l'aptitude nécessaire.

Ce système date d'un tems immémorial, et il n'a jamais subi d'altération, ayant été toujours sanctionné par différens brefs Pontificaux.

Pour ce qui concerne la publication et exécution en Toscane des brefs ou des bulles du Pape, il est établi que tout sujet Grand Ducal qui se trouve dans le cas d'avoir recours au Saint Siège pour toute affaire ayant

trait à la juridiction ecclésiastique, doit se munir préalablement de l'autorisation du Gouvernement à cet effet, et que tout bref ou décret qu'il vient d'obtenir en conformité de son recours, doit être revêtu de la formalité du placet du Souverain, ce que l'on appelle chez nous, "Regio Exequatur," et sans quoi ces décrets ou brefs n'acquièrent en Toscane aucune valeur juridique dans les rapports temporels et civils,

Je saisis, &c.

(Signé) DUC DE CASIGLIANO.

(Translation.)

IN conformity with the wish which you had the goodness to convey to me in the name of Her Britannic Majesty's Government, in your note of the 20th instant, I am now enabled to inform you that there is no Concordat or Convention between the two Courts of Tuscany and of Rome in regard to the exercise of ecclesiastical jurisdiction in the Grand Duchy.

This exercise is regulated by a series of laws, issued by the sovereign authority of the State, and which have for a long time been constantly enforced.

On all occasions when an episcopal see has to be filled up, the Sovereign of Tuscany causes to be presented to the Holy See a list of four candidates, with the previous understanding that the choice must fall on the first, even in the event of his not being duly qualified.

This system dates from time immemorial, and has never undergone any alteration, having been always sanctioned by different pontifical briefs.

As regard the publication and execution in Tuscany of Papal briefs or bulls, it is laid down that every subject of the Grand Duke who has occasion to apply to the Holy See for any matter coming under ecclesiastical jurisdiction, must in the first instance obtain the permission of the Government to that effect, and that every brief or decree obtained by him in consequence of his application, much be sanctioned by the placet of the Sovereign, which we called "Regio Exequatur," and without which those decrees or briefs acquire in Tuscany no judicial validity in temporal and civil matters.

I have, &c.

(Signed) DUC DE CASIGLIANO.

WURTEMBERG.

No. 34.

Sir Alexander Malet to Viscount Palmerston.—(Received February 6.)

My Lord,

Stuttgart, February 2, 1851.

THE Wurtemberg Government only furnished me on the 28th ultimo with the reply, copy of which I have the honour to inclose, to the request which I addressed to the Minister of Foreign Affairs on the 17th December, in compliance with the instruction contained in your Lordship's despatch of the 12th December, to obtain and transmit copy of any Concordat or equivalent arrangement between the Wurtemberg Government and the Court of Rome, for the governance of the Roman Catholic Church.

The notice of the nature of the relations subsisting between this Government and the Court of Rome, contained in the document accompanying Baron de Linden's note, a translation of which is annexed, are very ample and detailed, and I do not think it necessary to trouble your Lordship with any of the official documents referred to, which if required can easily be obtained and forwarded on a future occasion. The matter contained in the summary appears to be of sufficient interest to induce me to put your Lordship in possession of it as speedily as possible, and specially to draw attention to the complete control possessed by the Sovereign of this country over the nomination of Roman Catholic prelates: first, in their selection; secondly, in their confirmation after their nomination by the Pope previous to induction to their see; and also to the oath required on installation.

I have conveyed my acknowledgments to Baron de Linden for his Excellency's communication.

I have, &c.
(Signed) A. MALET.

Inclosure 1 in No. 34.

Baron Linden to Sir Alexander Malet.

Stuttgart, le 28 Janvier, 1851.

LE Soussigné a l'honneur de faire parvenir ci-joint à Sir A. Malet, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté Britannique, en réponse à son office en date du 17 Décembre dernier, un aperçu touchant les bases sur lesquelles reposent les rapports et relations du Gouvernement Wurtembergeois avec celui de Rome.

Le Soussigné, &c.

(Signé) BARON DE LINDEN.

(Translation.)

THE Undersigned has the honour herewith to transmit to Sir A. Malet, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, in reply to his note of the 17th December last, a memorandum as to the bases on which the relations of the Wurtemberg Government with that of Rome rest.

The Undersigned, &c.

(Signed) BARON DE LINDEN.

Inclosure 2 in No. 34.

Memorandum on Relations between Wurtemberg and the Court of Rome.

(Translation.)

THE arrangements entered into with the Papal Court relative to the Roman Catholic Church in Wurtemberg are contained in the Papal Bulls *Provida solersque*, of August 16, 1821, and *Ad dominici gregis custodiam*, of April 11, 1827. (Regierungs Blatt of the year 1827, pages 435—474.)

Both of these Papal bulls obtained the Royal sanction on the 24th October, 1827, in so far as they relate to the settlement of the Upper Rhenish diocese (Kirchen Provinz); to the limits, regulations, and endowment of the five bishoprics and their chapter, therein comprised; to the nomination of an archbishop and of bishops, and appointment to cathedral prebends.

In conformity with these arrangements, all Roman Catholics in Wurtemberg belong to an episcopal diocese, subordinate to the Bishop of Rottenburg, who, in conformity with the text of the Papal Bull *Ad dominici gregis custodiam*, exercises with due right the episcopal jurisdiction which appertains to him conformably to the canon law and the present constitution of the Church.

Respecting the relation of the Church, and more especially of the Roman Catholic Church, to the State, it is determined by the subsequent Articles of the Constitution of September 25, 1819, which enact—

“§ 70.—To each of the three Christian Confessions existent in the kingdom, the free and unrestrained practice of their religion, and the administration of their church, school, and poor funds, is assured (zugesichert).”

“§ 71.—Any arrangement relating to the internal regulation of ecclesiastical affairs is left to the autonomy of each confession as guaranteed by its own special institutions.

“§ 72.—The King is the supreme protector and controller of each confession. In accordance with this prerogative, ordinances of the Church can neither be published or be put in practice, without their having been first submitted to and obtained the sanction of the Sovereign.

“§ 78. The administration of the internal affairs of the Roman Catholic Church is a prerogative of the Bishop and of his chapter. He, with the aid of that chapter, is empowered to exercise all such rights as, conformably to the statutes of the canon law, are virtually connected with his office.”

2. As to the election of a bishop, the Papal Bull *Ad dominici gregis custodiam* determines:—

“1. Whenever a vacancy occurs, be it of an archbishopric or of an episcopal see, the chapter of the cathedral where the vacancy occurs, is bound, within a month from the day when the see became vacant, to make known to the Sovereign of the country in whose dominions the vacant see is situated, the names of the candidates chosen from among the clergy of the diocese, whom, in conformity with the statutes of the Canon Law, the chapter deems worthy to occupy with wisdom and piety the archbishopric or episcopal see.

“Should, however, one of the candidates not be agreeable to the Sovereign, the chapter must efface his name from the list of candidates. At the same time, it is requisite that the number of the remaining candidates should be sufficient to admit of one of their number being elected as their new chief, and then the chapter has to proceed, in conformity with the customary canonical formalities, to elect one of the remaining candidates as archbishop or bishop, and submit, within a month from the day of election, the necessary documents relating to the election, duly authenticated, to His Holiness the Pope.

“2. The process necessary for collecting proper information relative to the character and qualifications of the candidates proposed for the archbishopric or episcopal see, shall, conformably to the instructions issued by order of Pope Urban VIII, be entrusted by the Pope either to one of the provincial bishops, or to some other dignitary of the respective diocese. If the Pope, from the documents submitted to him, is satisfied that the individual elected is possessed of such necessary qualifications as by the ecclesiastical law are required for a bishop, he shall, as soon as possible, ratify his election by an apostolic letter, conformably to the statutes of the Canon Law.

“3. Should it however be found either that the election was not carried on in conformity with the canonical law and regulation, or that the person elected did not possess the virtues above alluded to, the Pope may, by special favour, allow the chapter to proceed to a new election.’

On the same subject the Royal deed of endowment for the newly established Bishopric of Rottenburg directs,—

“The episcopal see shall be filled up by election, the formality of which is as follows:—

“Whenever a vacancy of the episcopal see occurs, the chapter has to submit to us, within a month from the day of the vacancy, a list of such clergy of the diocese whom they deem fit to preside over the Church with piety and wisdom.

“Should there be among the candidates proposed, some individual not agreeable to us, the chapter shall at our request erase his name from the list of candidates.

“The chapter shall then proceed to the election of a new bishop; it is, however, bound to elect only such person as previous to the solemn act of election has given positive proofs of his being possessed of all the qualifications required, and that he is agreeable to us.

“We reserve to ourself the right of sending a Royal Commissioner to attend at the election, without whose assent the result of the election must not be made public, nor can any measure be taken to carry it into effect.

“Only such priest can be elected bishop who is born in Germany, and is a subject of our kingdom.

“Besides the spiritual qualifications required, the person elected must have discharged the duties of a priest, or that of professor at a college or other public institution, or otherwise filled a public office with merit and distinction, and be well acquainted with the political and ecclesiastical laws of the country.

“The Bishop elect shall immediately after his election give notice of it to the Chief of the Roman Catholic Church, and request his sanction.

“Previous to the consecration by an archbishop or bishop, who by a royal rescript will be permitted to solemnize the act, the bishop elect has to take the following oath:—

“‘I make oath, and promise upon God’s holy Gospel, obedience and fidelity to His Majesty the King of Wurtemberg and his successors, and to the established laws of the country. I promise not to have any understanding with, take part in any deliberations, or to enter into any confederacy, either at home or abroad, which might endanger public safety; on the contrary, to acquaint His Majesty of any mischievous scheme which may come to my knowledge, be it in my diocese or elsewhere, and which might become injurious to the welfare of the State.’

“After his installation the bishop becomes invested with the powers, and enters upon the duties belonging to his office. And it shall be our care, not only that he should not be impeded in the exercise of his rights, but, on the contrary, be protected against all foreign encroachments.

“It will be equally our duty to take care that the bishop may not, under any pretext whatever, refuse to minister to the clergy and laity of his diocese the duties incumbent on his office.”

Hereto must be added the Article of the Royal Ordinance of the 30th January, 1830, relative to the exercise of the constitutional rights of protection and control over the Roman Catholic Church on the part of the Government.

“§ 15. Only such priest can be elected bishop who is born in Germany, and is a subject of one of the States wherein the episcopal see is vacant, or of one of those States united with that diocese. Besides the spiritual qualifications required, the person elected must have discharged the duties of a priest, or that of professor at a college or public institution, or otherwise filled a public office with merit and distinction, and be well acquainted with the political and ecclesiastical laws of the country.”

Relative to the publication of Papal bulls, apostolical briefs, or other edicts whatever the § 72 of the Constitution previously referred to is explicit.

Further resolutions on this subject are contained in the Royal Ordinance of 30th January, 1830, which says,—

“§ 5. All Papal bulls, Apostolical briefs, and edicts whatever, previous to their being published and carried into effect, must obtain the royal sanction, even such Papal bulls as have obtained the royal sanction only retain their validity until such a period as may be otherwise enacted. The royal sanction moreover is required not only for all Papal bulls and enactments newly issued, but also for all previous Papal orders and edicts, whenever such orders or edicts are intended to be carried into effect.”



